United States Court of Appeals for the Second Circuit



APPENDIX

74-8058

United States Court of Appeals for the second circuit

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

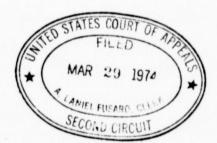
-against-

STANTON FREEMAN, et al.,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

APPENDIX FOR DEFENDANT-APPELLANT Vol. III—Pages 686 to 1037



Beldock Levine & Hoffman 565 Fifth Avenue New York, New York 10017 (212) 490-0400 PAGINATION AS IN ORIGINAL COPY

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(So marked)

MR. BELDOCK: We turn these over,

Mr. Fried reminds me, on August 15, the day before the Silvestro meeting.

Do we agree that this goes into evidence?

MR. FRIED: I have no objection to it

going into evidence.

THE COURT: You are introducing it into

evidence?

MR. BELDOCK: Yes, Judge.

TH 1 COURT: Mark it in evidence.

THE CLERK: So marked, Defendant Freeman's

Exhibit E in evidence.

(So marked.)

BY MR. BELDOCK:

Q Did we also turn over to the Government, to your knowledge, on August 16, two suitcases purportedly

belonging to George and Theresa, and containing various of

their properties?

A That is correct, sir.

Q And as to that, there was no inventory, we

just turned them over to you without any of us going

through them in the office; is that right?

That is correct.

Referring again to Mr. Freeman's discussions at the office concerning Saturday, June 16, he told you that after his wife and mother-in-law and child came, there was some discussion, as a result of which it was agreed that the hostess would accompany George on the next day, Father's Day, to the house in Granville on the Hudson?

A It is my recollection, sir, that the conversation too.

place while the mother-in-law was there, because it was

decided not after, but rather during her stay.

MR. WALL: Excuse me, Mr. Beldock. I think the question should be, "accompanied Stan," rather than "accompanied George."

MR. BELDOCK: I'm sorry. I will state it again.

BY MR. BELDOCK:

- Q During August 16, did Mr. Freeman tell you that while the mother-in-law and Dawn were there it was agreed, as a result of a discussion, that the next day, when Stan was to come visit in the country, George and Theresa were to come along?
- A Yes, sir, I testified to that.
- Now, did Stan tell you that later that evening, just as he was about to go to work, George asked if he and Posy could go along with Stan?

Silvestro-cross

TO	work

- Q No, just to leave.
- A That's correct.
- Q George asked whether Stan would give them a
- A Yes, that's correct.
- Q And did he say that up to just about the time that he was about to leave and this request was made, he had no idea that Posy was leaving with George at that time?
- A I cannot say that, sir, because I believe it had been decided that Rosalys would not be going with them to the mother-in-law's at the mother-in-law's request and that further, she would not be staying at Stan's. So I cannot draw that inference that he did not know that she would no longer be staying there.
 - In any event, did Stan tell you that when he left for the club sometime after eight o'clock that night, George asked if he and Posy could go along with him in the cab?
 - A That's correct, sir.
 - Q And that before, Posy had had her hair cut earlier that afternoon by a barber that Stan got at her request or George's request, right?

Silvestro-cross

I believe that's -- I'm certain he said that they returned at the end of the day. I'm not certain who he said drove them.

Q Did Stan say that during that day, during that Sunday, at one or another time George had mentioned to him that he was being bugged about picking up Posy's bags, or words to that effect?

A On Sunday, sir?

Q Yes, a conversation with George on the way back in the car.

A I do not recall that. The inference to the bags I recall as having occurred on Saturday.

MR. FRIED: I would ask that the witness be directed to answer these questions yes or no.

THE COURT: If you can answer them ye or no, please do so. If you can't answer them yes or no, say you can't.

BY MR. BELDOCK:

Q Let's go to Monday. This is now June 18th.

Did Stan tell you that on that date, to his knowledge, Posy
was not at his house?

A He said that, yes, sir.

Q Did he sometime during the conversation, did

Stan sometime during the conversation say to you that when the Costas first arrived, he gave them a set of keys to his place?

A Yes, sir.

And did he tell you that after the Costas left, as far as he knows, they still had the keys? In any event, he did not get them back?

A I do not recall that, sir.

Again referring to the Monday, did Stan tell you that after Terezinha left for immigration, just shortly before one o'clock -- do you recall that part?

A Yes, sir.

Q That he had a discussion with George at George's opening concerning Rosalys' bags at the Hotel Paramount?

A That's correct.

And did he tell you that George was saying how Rosalys was bothering him to pick up those bags?

A That's correct.

And did he tell you that he said, "What's the problem with the bags?" Or words to that effect, "Why should there be any difficulty?" Or words to that effect, I don't know whether I am quoting directly.

A No, sir, I can't answer as to that.

Silvestro-cross

1	Q Did he tell you that at deorge's request,		
	because George, as you said on direct, felt it was linguis-		
	tically to be easier for Stan, Stan called the Hotel Paramount		
	and spoke to a man and ascertained what was due on the bill		
	and said he would make arrangements to have the bags picked		

A He told the man that he would have the arrangements .-

Q Yes.

A That's correct.

up later that day.

Q That's what he told you he said on the phone; right?

A Yes.

Q He was asked on a number of occasions during this conversation whether he used the name, David, or Davis, and what did he say?

A He said that he had not used the name, to the best of his recollection.

I believe he said to the best of his recollection he said he doesn't remember using any name, even a phony name, right?

A Yes.

Q But that certainly he didn't use the name.

Davis, referring to John Spencer Davis?

A That's what he said, yes, sir.

Silvestro-cross

Q Did he state to you that he had never heard of John Spencer Davis?

THE COURT: You see how unfair this is.

Mr. Davis came in, submitted to cross-examination -- or, rather, the manager submitted to cross-examination, and he says his best recollection is he used David or Davis. Now we are getting the defendant's version without cross-examination. Isn't that a nice, neat way of doing it?

MR. BELDOCK: There is no tactic involved in this --

THE COURT: I don't care whether there is a tactic or not. I am telling you that I am paying no attention to this defendant's statement as given on August 16th to this witness.

MR. BELDOCK: As substantive evidence -THE COURT: Continue, Mr. Beldock.
MR. BELDOCK: I will continue, Judge, yes.

THE COURT: Continue.

BY MR. BELDOCK:

- Q Did he tell you that George said to him that the bags might be watched?
- A That is correct; he stated that.

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Silvestro- cross

Q And did Stan say that he said to George, how could the bags be watched? Why should they be watched?

A I do not recall that having been said, sir.

Q Didn't he say -- withdrawn.

MR. FRIED: Your Honor, I object to this line of questioning as argumentative. The witness has answered the question.

MR. BELDOCK: I will withdraw it.

THE COURT: The form is bad; sustained.

The substance is worse.

BY MR. BELDOCK:

Did Stan tell you at Mr. Fried's office that before he left, just before he left, he asked George whether there might be some cocaine or blow, whatever word he used, in the bags?

A Are you asking me if Stan Freeman asked George that?

Q If he said to you on August 16 that he had asked that of George on June 18?

A I don't recall him having asked that question, sir.

Q What do you recall of that conversation, whatever Stan said on August 16 in regard to that -- the question of any drugs in the bag at the time?

A I recall that Mr. Freeman stated that Mr. Moreau told him that there was a small quantity -- a quantity

described in terms of grams in the bag.

Q Around three or no more than five, is that what you recall?

A Something to that effect, yes, sir.

Q And according to Stan, George said to him she only wants the bags, so that it doesn't matter whether the coke is there when you get the bags back?

A That is correct, sir.

THE COURT: I might say, if I didn't say it before, that the 3.5 grams of cocaine and coca leaves has nothing whatever to do with this case.

The fact that the defendant, Freeman, had knowledge that it was in these bags might have something to do with it, but I am rejecting it entirely. I want to make it clear that that transaction as such is out of the case. It is relevant only in the event I feel that this was part of the plan to conceal the identity, the whereabouts of the conspirators in the conspiracy charged, and for no other reason.

I wanted to be certain, and I think
the defendants have said it, that the acquittal
or conviction in this case, in my opinion --

Silvestro-cross

you may argue this in another court -- does not estop any prosecution in any other jurisdiction for the possession or the attempt to possess or facilitate the transportation of the cocaine in those two valises.

In other words, the argument here may very well hurt you someplace else. If my opinion as to what is involved here and what is adjudicated here, to the extent that I can, I am going to make it clear, Idon't deem that before me at all, the crime of possession or attempting to possess those 3.5 grams of cocaine and the coca leaves that were picked up at the Paramount Hotel.

say, the argument you may feel may help you here, but it certainly won't help you elsewhere.

MR. BELDOCK: I am not looking for help elsewhere, Judge.

(continued on following page)

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THE COURT: I think the record ought

to be clear on that. I have too many problems

with collateral estoppl and double jeopardy,

and if I can help someone -- some other Court,

some other Judge in at least understanding how

I feel about it and what I understood I was

determining here, to that extent, that Court and

Judge is helped.

All right.

BY MR. BELDOCK:

Q Mr. Silvestro, from our conversation among all of us on August 16, and especially at the beginning of it, did you understand some things that I said and Mr. Fried said, that we came to the government's office representing that we wanted to tell everything Mr. Freeman knew about this incident, in the hopes that we could persuade the government that it was a mistaken indictment, just in the hope, with full recognition of the fact that we might not be able to.

A I recall you saying that to me, sir, after Mr.Freeman made his initial statements.

We all made it very clear to Mr. Freeman, despite any hopes we might have in coming forward with the information, there was absolutely no assurance as to what

Silvestro-cross

the government might do when they received it; is that right?

A That is correct, sir.

Q Just a little more of June 18, and I think we are finished.

Did Mr. Freeman tell our assemblage on

August 16 that just before he left and he was finishing his

conversation with George about picking up the bags, he said

words to this effect, if I can do it without pressing, if I

can get someone to pick up the bags for you, I will do it.

A Words to that effect.

THE COURT: Excuse me. Can you repeat that, Mr. Sulzer?

(Question read.)

THE COURT: "Pressing?"

BY MR. BELDOCK:

Q Did he use the word, stretching, in our conversation, rather than "pressing?"

A What I recall, sir, is what I testified to earlier, and that is as an after thought he said, "I'll see if I can get someone or another, one of the boys around the club or one of the fags to pick up the bags." Those are very close to the words.

Q Do you recall him saying to George words to

this effect, "I myself am going to be too busy but I'll see if I can get someone around the club to do it," in the words that you just said?

A This is -- I could not specifically recall this, however, there were words, some words to that effect.

I want to pick up a few other pieces of information. Did Stan tell you that when George was at his house on either June 16 -- I think on June 16 -- let me withdraw that.

bid Stan tell you that anytime George was at his house, he recalled him displaying a Brazilian I.D. card with Posy's name on it, and saying that he was going to mide it someplace in the house?

A Yes, sir.

Q You had no reason to know that information before, is that right?

A No, sir.

Q Did Stan tell you that as a result of such information as he was giving you, he gained the impression, certainly, as the days went on that George wanted to get Posy away?

A I am trying to phrase something which will be as accurate as possible.

As I stated earlier, when we had the discussion about

George stating that he felt that the woman and the child were an encumbrance, Mr. Freeman said that he felt that something was going on, or that something was wrong, to which he did not wish to inquire into. However, I don't specifically recall him stating that George wanted to get someone away or out of the country.Mr. Freeman stated that he knew that there was trouble of some sort.

Q And he didn't try to deny in his conversation in the office that --

MR. FRIED: I object to this question.

It calls for a characterization.

MR. BELDOCK: I will wit draw the question.

Now let's just go to the Jock Davis matter.

Stan told you that he had never heard of Jock Davis until
he came that afternoon; is that right?

A We are referring now to our conversation on the 16th?

Yes, regarding the events of the afternoon of the 18th.

A Yes. He stated that he did not know Jock Davis, had not seen him prior to the 18th.

Did he state at our conference that he had made a phone call before Jock Davis even came on the scene to try to make arrangements for someone else to pick up the

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bags?

A I do not recall if it was a phone call. I remember

him saying that he had spoken to this person, Brad Strange, and his girlfriend. It was my impression that it was a con-

versation that took place in person.

Q See if you recall this: Did Stan say that he got the phone number for Brad Strange at the Plaza Hotel by asking John Addison for it?

I do recall him saying that, yes, sir.

Q That he then, and this is on the afternoon of June 18, prior to Kim Ornitz and Davis arriving -- do you understand that?

Yes, sir.

Q Stan is talking about then, that he then made a phone call to the telephone number for Brad Strange; is that right?

A I recall that. However, as I stated just a moment ago, I believe that the conversation actually took place in person.

I want to see if this refreshes your recollection as to the sequence: Then Stan said that he spoke to the girl on the phone, but not to Strange, and made arrangements for -- strike made arrangements -- do you remember that part of it?

A Yes, sir.

A Yes, sir, I do.

Q That he didn't explain to the girl on the phone what it was about, but he said he would like her to do a favor later, but that he wanted to speak toBrad first, before she does it. Do you remember that?

A I do not specifically recall this, but that does not mean that it is not correct.

Q Then did Stan tell you that later that after noon, after Kim and Jock had arrived and left, shortly after that, Brad Strange and his friend arrived at the hotel and talked to Stan?

A I recall that that meeting took place prior to Davis and Ornitz arriving, to the best of my recollection.

To the best of your recollection, whether that is accurate or not, did Stan tell you that when he spoke to them in person, he said words to this effect: "I have already taken care of it. I have already got somebody to go so I don't need you?"

A That's correct.

O Did Stan tell you that when he spoke to Kim
Ornitz first and then to Jock Davis and Kim afterwards about
picking up the bags, he stressed the fact that there might
be some coke in the bags that they could share -- remember
that?

Q	That he was going to pick up the bags, wanted
to pick up	the bags for a friend of his; that the girl was
a friend of	a friend of his, that he was doing that friend
a favor, or	words to that effect?

- A No, sir, that is not as I recall it.
- Q Do you recall him saying that he told Kim and Jock that the girl was a friend of a friend?
- A No, sir, I don't recall that.
- Q Do you recall him saying that he said to Kim and Jock, "The bags might be watched. You don't have to do this if you don't want to?"
- A Yes, sir, I recall that.
- Do you recall him saying, in answer to questions by Mr. Fried or myself or you, that in any conversation he had with Jock or Kim that day, he did not say anything about smuggling, but that he did say that there might be cocaine in the bags and that he did say there might be about three grams?
- A Could you make that two questions, please, sir?
- Q Did he say, did Stan say that when he talked to these two people, he told them that he understood that there mint be about three grams or so?
- A Yes, sir, he said that.
 - Q Did he say that he did not speak to them about

that cocaine being smuggled?

A Thatscorrect, also, yes.

Did he say to you in Mr. Fried's office that he had no idea where that cocaine came from, that he had never heard of it before his talk with George that day?

A He said that as of that day, he did not know where it came from.

Q Did he tell you in answer to our questions that it was not true that he had said to Jock or to Kim that people were getting the girl out of town that night, or any words to that effect?

MR. WALL: Excuse me, I will object to the form of that question only because it includes Mr. Ornitz.

THE COURT: Can I have the question?

MR. BELDOCK: I will revise it.

MR. WALL: Would you please?

MR. BELDOCK: Yes.

BY MR. BELDOCK:

Q Did Stan tell you in Mr. Fried's office that in his conversation with Jock Davis, he did not say anything about getting the girl out of town?

- A He stated that, yes, sir.
 - After we went through the hours of discussions

Silvestro-cross

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and during the time it was going on, didn't you and Mr. Fried and even I sometimes question Mr. Freeman carefully, eliciting further information?

A Yes, sir.

> MR. BELDOCK: I think at this point I will try to just ask a general question. We have got enough details.

Q Were there various things that you and Mr. Fried were interested in asking him about, specific things?

Certainly, sir.

Q About facts that you knew or thought might be one way or another, right?

A Yes, sir.

(continued on following page)

THE COURT: I don't want this to go on with the possibility of some appellate court believing that some idiot was sitting here and just believed that this was proper evidence.

There is no objection by either side, but there must be a limit to it.

MR. BELDOCK: I'm trying to finish it right now, Judge.

THE COURT: But that does not -- that is no excuse for asking questions that are so obviously improper, that I should sit by and listen to it.

MR. BELDOCK: I respectfully --

THE COURT: Did Mr. Fried and myself ask you questions that brought out some additional information on some specific issues that you wanted to ask him? What is the purpose of it?

Are you trying to tell me that they
went through a thorough investigation and they
came up with no evidence, so I should dismiss
the indictment because of it?

MR. BELDOCK: I am trying to bring out, your Honor, everything that happened in this conference.

THE COURT: That is no reason for offering it in evidence. That is a very poor legal argument.

MR. BELDOCK: But when the government offers part of it, I'm -- I believe I'm entitled to, indeed obligated, as defense counsel, to bring it all out.

ment, Mr. Beldock. You give me authority for it and I will listen to the three-hour conversation that you had with the U.S. Attorney that just happens to be untrue.

MR. BELDOCK: I have authority for it,

Judge. I may be wrong, but I have authority.

I've argued this before successfully.

THE COURT: You are saying that if the government offers an admission, that then the defendant may offer everything that was said at the time, in and about the same day the admission was made? Is that what you are telling me?

MR. BELDOCK: I'm saying that the law is, as I understand it, that the government cannot pick and choose statements which it

considers incriminatory from an entire conversation, or even series of related conversations.

As I understand the law, your Honor, the government should, in the first instance, if it -- let me withdraw that.

As I understand the law, the -- if the government offers part of such conferences, part of such discussions, I am entitled on cross-examination to elicit the entire discussion, and I have argued this, your Honor. I've gone to the New York Court of Appeals. I believe I am correct.

I've had several --

THE COURT: Have you been successful in the New York Court of Appeals?

MR. BELDOCK: Yes, yes I have been successful in exactly this question, where I contended in People against --

THE COURT: What case is that?

MR. BELDOCK: People against Reginald Batten.

THE COURT: Give me the citation.

MR. BELDOCK: I have the brief here for the Second Department.

Silvestro-cross

THE COURT: No I am interested in the Court of Appeals' Decision, not your brief.

MR. BELDOCK: Your Honor, I'll get it for you. I don't know if we have it here.

THE COURT: How do you spell that?

MR. BELDOCK: B-A-T-T-E-N.

THE COURT: Get that for me, please.

I am addressing my law clerk.

In the meantime, you give me everything you say that Batten says you can give me, even though I am not bound by it here. Let's have it as guickly as possible.

MR. BELDOCK: In the cases that I have cited in the brief and Batten, confirming that at least I would be remiss in my duty as counsel, as tedious as this may seem to your Honor, remiss in my duty as counsel if I did not elicit the entire context, especially when I allege that the entire context brings it out as an entire exculpatory statement.

THE COURT: Go ahead. Then continue on that theory. I am anxious to hear it, then.

Please bring it out on that theory, that you must bring out the entire statement, in addition

to questions like now, didn't you and Mr. Fried examine on specific issues and try to get certain information?

MR. BELDOCK: I --

THE COURT: Continue, Mr. Beldock.

MR. BELDOCK: I will withdraw the last question, your Honor. I had only offered it in an attempt, as --

THE COURT: No, on the balance of it, about now, didn't your ex-wife and her husband have a fight, and then didn't you go up to the mountains with them and didn't you straighten it out?

Now, all of that gives me the whole picture, don't you see?

Go ahead, Mr. Beldock. Please proceed.

BY MR. BELDOCK:

Q When we were at your office -- let's take the question of the ex-wife.

When we were at your office, wasn't the government under -- withdrawn.

When we were at your office, wasn't there a discussion among yourselves, myself, Mr. Freeman and Mrs. Wresien about whether Dawn Preeman had been at Stan's

house on June 18 at a time when Rosalys Rudner was supposedly there, according to your position then? Wasn't that discussion very important to our conference?

THE COURT: Objection sustained.

MR. BELDOCK: I'm trying to explain to your Honor --

THE COURT: Wait, now, please. My ruling -- MR. BELDOCK: I'm sorry.

THE COURT: This witness is not an expert to determine what was important and what was not important.

MR. BELDOCK: I will rephrase it.

THE COURT: Next question, Mr. Beláock.

MR. BELDOCK: I'll rephrase it.

BY MR. BELDOCK:

Q During our conference, didn't Mr. Fried say, after listening to or while listening to Mr. Preeman's explanations and detailed story, didn't he say one of the things that bothers us here is that, as a result of a discussion that Mr. Levine had at your office, Mr. Levine, with myself, Mrs. Dawn Freeman, we understood that she had seen Rosalys at the house --

THE COURT: Objection sustained. What we understood is not part of the investigation and

Silvestro-cross

conference that you had on August 16.
Next question, Mr. Beldock.

BY MR. BELDOCK:

Q Did Mr. Fried ask Mr. Freeman at our conference whether Rosalys Rudner was at his house on June 18?

I believe I asked Mr. Freeman that.

A He said that he had not seen her since Saturday, the 16th.

Q And then did either you or Mr. Fried say, but we have information -- words to this effect -- but we have information that Tawn Freeman was there that day and Rosalys was there at the same time?

A This was a point that was brought up, yes, sir.

Q And didn't we, in response to that, go over in detail the events of Friday night --

THE COURT: Objection sustained. I want to know who, not "we."

the lawyer's. Is that right?

MR. BELDOCK: Right, Judge; I'm sorry.

BY MR. BELDOCK:

Q As a result of that point that was in issue, didn't Mr. Freeman, in response to questions about when

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Dawn Freeman was there, the same time Rosalys was there?

A In response that Mr. Freeman explained his version of the argument that occurred between his wife and the boyfriend.

Q That's why we went into -- withdrawn.

Did Mr. Freeman at the office on August 16th tell you that when Jock Davis came back with the bags and came to the door, Mr. Freeman said to him in a loud voice, "Jim ain't here?"

A That's correct.

Q But that in a soft voice he said he told Jock he'd been followed?

A That's correct.

Q Go to the subway, or something like that, and get lost?

A That's correct.

Q Again, that's not information you had before, either; is that correct?

A No, sir, it's not.

MR. BELDOCK: I'll consult with my client for a moment, Judge. I think I'm through.

I have no further questions. Thank you.

THE COURT: Mr. Wall?

MR. WALL: Yes, sir.

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CROSS-EXAMINATION

BY MR. WALL:

O Mr. Silvestro, I show you Government's Exhibit 10 in evidence, which, I may say, your Honor, is the second lab report, and I ask you whether or not it is not a fact that items number 3 and number 5 we e not found in the suitcases which Jock Davis picked up, but were found on the person of Jock Davis?

Number three, five capsules of Dexamyl Spansules were found on the person of Jock Davis.

And number five?

THE COURT: What was the other exhibit

number?

MR. WALL: Exhibit number 10, your Honor.

THE COURT: I'd like to see it, please.

THE WITNESS: That's correct.

BY MR. WALL:

Three and five were not found in the suitcases, as were the other items? They were found upon the person of Jock Davis after he was arrested?

That is correct.

MR. WALL: I have no further questions.

I thought there might be some confusion, your Honor, but it appeared that the report

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referred to what was taken out of the two suitcases. But only items number 1, 2 and 4 were found in the suitcases.

THE COURT: All right.

MR. WALL: No further questions.

THE COURT: Mr. Fried?

MR. FRIED: Your Honor, I have one

question.

Yes, sir, he did.

REDIRECT EXAMINATION

BY MR. FRIED:

Q Mr. Silvestro, directing your attention to the conference or the meeting on August 16, in the offices of the United States Attorney, Eastern District of New York, that you testified about. At that time did Mr. Freeman, the defendant, tell you what he did after the agents of customs left the Hotel Diplomat on the 18th of June, 1973?

A He said that immediately after the agents left the hotel, that he dialed his home telephone number and the phone was answered by someone whom he believed to be George Morao, and he said the single word, "split," and hung up the phone.

He says that he later went home and was called there,

about ten or 11 o'clock in the evening, by Theresa Costa, and he said that at this time he, in some cryptic message, something which he didn't recall either, about not being your suitcases and not here, something, indicated to her that she needn't bother to call him or contact him any more.

MR. FRIED: I have no further questions.

THE COURT: Anything further?

MR. BELDOCK: Yes.

RECROSS-EXAMINATION

BY MR. BELDOCK:

Q Let me take the last part of what you were telling Mr. Fried, first.

Mr. Freeman told you, am I right, that later
that evening he had been on the roof and a call came in and
he picked up the phone, the roof of the hotel; right?

A I may be incorrect on the location. However, I believe—
my impression at the time and is now that it was at home.

However, I will state that it's not impossible that it was
at the club.

- Q Well, do you recall him saying he picked up the phone by accident and there was Theresa on the phone?
 A Again, because my recollection is that it was at home,
 I remember the --
 - In any event, he told you that Theresa called

Silvestro-cross

and said something to this effect, she said, is it all right if I come pick up my records; is that right?

A That's correct, sir.

And Stan said to him something to this effect:
my wife has found out, something like that, so it's not all
right?

A I don't remember it as that, sir. I don't think that at the time that he explained to us, Mr. Freeman was quite sure about what he had said.

I recall it as having been something about the parcel, or something like that.

Q Anyhow, he indicated that no, it was not all right, and he asked -- didn't he tell you that he asked if he could get a phone number?

A I do not recall that either, sir.

Do you recall him saying at the conference that the call came from someplace where there was music?

Yes, sir.

A Yes, sir.

Now go back to the other part of it.

Mr. Freeman at the conference -- withdrawn.

The information about the telephone call from Theresa; did you have any information about that before

Silvestro-recross

Mr.Freeman gave it to you?

A The call to Mr. Freeman later that evening?

Q Yes, sir.

A None whatsoever, no, sir.

Now, the telephone call from Stan to his home when he spoke to George, please try to remember this, Mr. Silvestro.

Didn't Stan say to you that after Jock came, he came out into the lobby and saw the bags -- saw bags which he thought were very inappropriate for the Diplomat, being Gucci bags; right?

A Yes, sir.

(continued on following page)

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Silvestro	-	cross	/Beldock
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- Q Didn't he say that he also saw in the lobby what to his eyes seemed like two authorities of some sort?

 A That's correct, sir, yes.
- Q Anddidn't he say that he then went out of the lobby to the club and from there, at that time, he called George at his home?
- A No, sir. I am very sorry. I distinctly recall that the call to George Moro occurred after we left. I'm very positive about that.
 - Q Your recollection is it is?
- A Yes, sir.
 - Q You don't have any notes on it either?
- A No, sir, I do not.
 - Q That call simply was to say "Split"?
- 16 A Yes, sir.
 - Q Is the word he used?
- 18 A Yes.
 - Q And you have no knowledge of that before?
 - A No, sir, I do not.
 - Q Did you understand from Mr. Freeman that at that time the only people at his house that he knew were George and Theresa?
 - A That's correct, sir.
 - Q And he had no belief or idea that Rosalys might

Silvestro-cross/Beldock

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- A That's what he stated, yes, sir, absolutely.
- Q There is a photograph there of George Moro in Government's exhibit 34. Is this photograph among the papers that we turned over to you at the time of the conference?
- A Are you referring to the color one?
 - Q The color one, yes.
- A Yes, sir, that's correct. That's one of the photographs that we had obtained from the defendant Mr. Freeman.
- Q And they came from, as far as you know, from the papers of the Costas that we turned over to you?
- A Yes, sir, that's what was stated.

MR. BELDOCK: No further questions.

THE COURT: What was the exhibit number on that, please?

MR. BELDOCK: The exhibit number is 34, Government's 34 in evidence.

THE COURT: Any other questions? Anybody?

MR. BELDOCK: No, sir.

MR. FRIED: I have no questions.

THE COURT: Do you have one?

MR. FRIED: No further questions.

THE COURT: You may step down. Thank you.

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MR. FRIED: The Government calls as its next witness Agent Michael Levine.

THE COURT: Mr. Beldock, did I understand you to say that in the case of People against Batten, that the Court of Appeals said in effect that once the People or the Government offer an admission, that everything that was said at about that time is introductible? Is that what you said the case held?

MR. BELDOCK: Well, your Honor, my remembrance of the case, which I haven't reread, but what I argued --

THE COURT: I am not interested in what you argued. I am interested in what the Court held.

Here is the case, People against Batten.

MR. BELDOCK: Excuse me.

THE COURT: Excuse me, Mr. Beldock.

MR. BELDOCK: I'm not --

THE COURT: Excuse me.

MR. BELDOCK: Of course, Judge.

THE COURT: People against Batten, 31
N.Y. 2d, 737. That is the case you were in.
You apparently substitute for another attorney.

There are other attorneys in. There was a prior opinion, where it was reversed, People against Anthony and Batten, 24 N.Y. 2d 696.

Here are the reports. You can cite it in the record for me if there is anything that supports your position.

In the meantime, we will swear in Mr. Levine.

MICHAEL LEVINE, having been first duly sworn by the Clerk of the Court, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FRIED:

Q Mr. Levine, will you tell the Court your address, please?

A My official address is care of Drug Enforcement Administration, 555 West 57 Street, New York, New York.

Q You are employed by the Drug Enforcement Administration?

A Yes, I am.

I'm a Special Agent with the Drug Enforcement Administration.

Levine - direct

Q Mr. Levine, how long have you been so employed as a Special Agent?

A I've been a Federal agent 8 years. With the Drug
Enforcement Administration, since its inception, July 1st.

Prior to that I was a Special Agent with the Customs Agency Service.

Q Were you involved, as a result of your official duties in your investigation of the importantion of cocaine that began or, as far as you were concerned, with the arrest of a Marilene Tambini on June 13 at John F.

Kennedy International Airport?

A Yes, I was.

Q As a result of her arrest and information that you learned through your investigation, did a time come when the Hotel Paramount in New York City was placed under --

THE COURT: Excuse me. Excuse me.

Are you going out hunting other cases for Mr. Beldock?

MR. BELDOCK: This case.

THE LAW CLERK: The Appellate Division.

THE COURT: No. If you want to do any more research on it, you do it on your own and argue it tomorrow.

MR. BELDOCK: Of course, Judge. I thought

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Levine - direct

you wanted me to do it now.

THE COURT: You said it was in the Batten case.

MR. BELDOCK: Yes. The order was affirmed on the opinion of the Appellate Division.

THE COURT: May I have the cases, please?

MR. BELDOCK: So you won't --

THE COURT: If I have the chance, I will get the authority of what I believe the law to be on the right of the defendant to offer explanations or statements that are not offered by the Government to explain or modify or revoke or alter statements already made.

Go ahead, Mr. Fried.

BY MR. FRIED:

Q Mr. Levine, did you, as a result of your investigation, place the Hotel Paramount under surveillance?

A Yes, I did.

Q Can you tell us, as best as you recall, the reason you placed the Hotel Paramount under surveillance and what it led to you, so far as this case was concerned?

A Our investigation led to the fact that a fugitive, Rosalys Rudner, was registered in room 1815 of the Hotel Paramount.

Levine - direct

When you called her a "fugitive ---MR. WALL: Excuse me, Mr. Fried.

Your Monor, it seems to me that much of what Mr. Levine may testify to will be cumulative of Mr. Silvestro, and I wonder whether or not it might be appropriate to suggest that, number one, we stipulate that his testimony would be substantially similar, and that Mr. Fried can confine himself to those places where there is no overlap.

THE COURT: That is up to the parties.

MR. FRIED: I'd prefer talking with Mr. Beldock about that.

I would stipulate in interest of economy of time of all the events leading up until the time that Mr. Levine arrived at the Hotel Diplomat.

MR. WALL: In effect, we have heard that from Mr. Silvestro and we would merely be getting a repetition.

MR. FRIED: I'm introducing that -by consent, if possible, the baggage ticket
that was belonging to Rosalys Rudner that was
found in the room, as well as her airline ticket.

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Levine - direct

MR. WALL: No objection to that.

MR. BELDOCK: No objection to that.

MR. FRIED: I offer the baggage ticket

as Government exhibit --

THE CLERK: 52 in evidence.

(So marked as Government's exhibit 52 in evidence.)

MR. FRIED: And I offer the airline ticket which has been pieced together as Government exhibit 53 in evidence.

THE CLERK: So marked.

(So marked, in evidence.)

THE COURT: Let them be marked.

MR. WALL: No objection.

MR. BELDOCK: No objection.

MR. WALL: Apparently, your Honor,

that suggestion won't save time so --

THE COURT: All right. Go ahead.

MR. FRIED: However, as I do understand,

we are agreeing to direct Mr. Levine's
examination to bring him at this point directly
to the events at the Hotel Diplomat? Is that
correct, Mr. Beldock? I'm going directly to the
events at the Hotel Diplomat, on -- stipulating

Levine - direct

that up until that point his testimony would be basically the same.

MR. WALL: I would so stipulate. The same as what Mr. Silvestro said.

MR. FRIED: That's correct.

MR. WALL: Fine.

MR. BELDOCK: Yes.

BY MR. FRIED:

Q Mr. Levine, I will ask you this question to bring you as a result of the stipulation, directly up to the point that we are concerned with.

After you had the Hotel Paramount under surveillance, yourself and brother agents of the -- the Bureau of Customs, is it not a fact that this surveillance led to the arrest of John Spencer Davis?

A That is a fact.

Q And were you a member of the crew that arrested John Spencer Davis?

A Yes, I was.

Q Can you tell us, by way of introduction, where he was arrested?

A lie was arrested on the street, approximately 44th Street and Broadway.

Q Did a period of time elapse after which you

Levine - direct

allowed Mr. Davis to enter the Hotel Diplomat to effectuate a controlled delivery of the suitcases?

A That's correct.

Q Can you briefly explain to us the reason for the delay?

The reason for the delay was that I was attempting to —— I was contacting other radio units, other customs agents, and having them respond to the Hotel Diplomat, in order that they be positioned around the hotel before we arrived there and what we were waiting for was word that they were in position.

Q Now taking you directly to the events that occurred within the hotel Diplomat, Mr. Levine.

Subsequent to the time when Mr. Davis returned from Mr. Freeman's room or office, did you have occasion to then go to speak to Mr. Freeman?

A Yes, I did.

Q Directing your attention to that circumstance, could you tell us what occurred?

A We first spoke to Mr. Freeman downstairs in his club or in a club known as the Le Jardin.

MR. FRIED: Your Honor, Mr. Beldock is suggesting that it might be possible to use Mr. Levine's pre-trial hearing minutes, which

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Levine - direct

is substantially the same as he will now testify.

THE COURT: Only if the parties agree that Mr. Levine's testimony on both direct, cross, redirect, recross, at the pre-trial suppression hearing, be incorporated into this trial with the same force and effect as if he were to give it at this trial.

MR. BELDOCK: Could we take a few moments among ourselves?

I've reviewed the minutes last night. We will see whether we can agree, at least as to this portion of his testimony, having to do with the Hotel Diplomat and his questioning of Mr. Freeman. I think we might be able to do that.

> THE COURT: All right. A short recess. (Recess taken.)

(continued on the next page.)

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MR. FRIED: Judge Mishler, with the consent of Mr. Beldock and Mr. Wall, the Government would agree that you use the pretrial suppression minutes of Mr. Levine concerning the events of the first confrontation of Mr. Friedman at the Hotel Diplomat and the statements made by Mr. Friedman at the Customs Department headquarters at 201 Varrick Street on June 19th. The parties, in discussing it, had one additional point that they would like to make, and that is, in those minutes there are some references to statements that Mr. Levine received from other persons that were used for the probable cause, hearsay from Mr. Duarte and hearsay from Mr. John Spencer Davis, and as to the hearsay which forms the basis for the probable cause, with the consent of the parties --

MR. WALL: It was my understanding all the testimony given by Agent Levine with the hearsay exception.

THE COURT: All the testimony.

MR. WALL: If it is simply not pertinent to the testimony on trial, I know your Honor

won't consider it.

THE COURT: All right.

MR. FRIED: With the exception of hearsay.

MR. WALL: That we know won't be accepted.

THE COURT: All right.

MICHAEL LEVINE, a witness called herein, resumed the stand and further testified as follows:

DIRECT EXAMINATION

BY MR. FRIED: (continued)

well, during the beginning of September, did you have occasion to be in the office of the United States Attorney for the Eastern District of New York at a time when Mr. Ornitz and his lawyer and myself were present?

A Yes, I was.

Q Would you recount, as best you can call, what it was Mr. Ornitz told you concerning the events relative to this trial?

A I first heard you mention to Mr. Ornitz and his attorney that anything that he said during this meeting could and might be used against him during the forthcoming trial.

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Levine - direct

I heard both Mr. Ornitz and his attorney acknowledge they understood this.

O Continue, please.

A Mr. Ornitz then stated that on about June 16th he had seen Jock Davis and that during that time --

Q Did he tell you when the next time he met

Jock Davis was after June 16th?

A Yes, June 18th.

MR. WALL: I think it was June 15th.

MR. FRIED: June 15th.

Q Would you recount the events of June 18th, please?

A Yes, Mr. Ornitz stated that he received a phone call from Jock Davis telling him that he was coming in from Connecticut and he would be there this afternoon, and that he would like to take Mr. Ornitz and his girlfried Wanda to dinner.

Mr. Ornitz stated that in the afternoon, Mr. Davis did come approximately 3:30 or thereabouts to his apartment and I believe it was on Riverside Drive.

At that time, I believe Mr. Ornitz recommended the Ido Restaurant, a Japanese restaurant. And Mr. Davis was going to pay for dinner for the three.

Mr. Ornitz stated that he then telephoned his

Levine - direct

girlfried Wanda Fede and told her she was to meet the two of them and they would go to dinner.

They then left and were passing -- were walking in the Times Square area towards the place that Mr. Ornitz' girlfried worked, I believe the name of the company was Mobias, and they were passing the Hotel Diplomat, and prior to getting there, Mr. Davis had been -- I think to use his language -- bugging him for some coke.

And Mr. Ornitz suggested they go in and see Stan

Freeman, or he stated it might have been, he said, do you

want to see -- again using his words -- see a fag joint or

fag bar?

They went into the Hotel Diplomat. They saw Stan

Freeman in a coffee shop. And at this time Stan Freeman

offered first Mr. Ornitz the opportunity to go pick up these
bags for this girl.

I asked Mr. Ornitz whether Mr. Freeman told him that the girl was a fugitive.

He said that Mr. Freeman thought that the bags might be watched.

I asked Mr. Ornitz why he thought the bags were being watched. He first stated possibly because she skipped the rent on the hotel. Then he said its also a possibility that there might be some coke in the bags.

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Levine - direct

He then --your Honor, I'm going to make references to something I don't know whether I should --

Q Just tell us the events that took place concerning the incident?

THE COURT: What Mr. Ornitz said.

A It was decided between Mr. Ornitz and Mr. Freeman that it was better that Mr. Ornitz not go. And he, perhaps asked Mr. Davis if he would go.

THE COURT: Are you referring to a statement that Mr. Freeman is alleged to have made where he said it's better Ornitz doesn't do it, because he had been in trouble before?

THE WITNESS: A little more specific.

THE COURT: There is no jury here. Is there any objection?

MR. WALL: Reference has been made that since Mr. Ornitz previously had been in trouble, Mr. Freeman didn't want him to get involved.

THE COURT: That is already in the record.

MR. WALL: I don't think we need be specific as to what the involvement had been.

THE WITNESS: Mr. Ornitz stated that

Mr. Freeman and Davis had a conversation during

which part of the time Mr. Ornitz couldn't hear

or wasn't paying attention to what was going on and was wandering around. He said it was his understanding, finally, that Mr. Davis did agree to get the bags. And that he was doing it for possibly a share of whatever cocaine was found inside the bags.

Mr. Ornitz was asked whether he intended to share in that cocaine and he said yes.

I then asked Mr. Ornitz if he knew Stanton Freeman to be a person that sells cocaine.

MR. FRIED: I would like to bring out other specific prior acts. Prior similar acts of misconduct. I would request the same ruling we had throughout this trial and Mr. Beldock --

MR. BELDOCK: Here's a testimony
through Mr. Levine -- is not an admission of
Mr. Ornitz. I know it is a non-jury trial,
but I object.

THE COURT: The act has to be similar.

If the act is one in which Mr. Freeman would be a purchaser of cocaine for the purpose of distributing. If it is anything else, I am not interested.

MR. FRIED: Similar acts within the guidelines you just laid down. In addition,

I believe they are admissible against Mr.

Ornitz himself on the theory they explain the question of hidden knowledge and intent.

Levine - direct

THE COURT: What is your theory as to

Mr. Ornitz' position in this alleged conspiracy?

Do you say he was a user?

MR. FRIED: The Government's theory is, it is a chain conspiracy, and he is at the end of the chain.

THE COURT: The user?

MR. FRIED: A user and as a user, he was participating in the conspiracy itself.

THE COURT: That is your position?

MR. FRIED: That is correct.

THE COURT: Participating to the extent the ultimate user is the ultimate market?

MR. FRIED: Also, as the user, he was not limited to being just a user.

THE COURT: You've got proof of what he was?

MR. FRIED: I've got no proof.

THE COURT: When we talk about similar

Levine - direct

acts, the acts here are importation --

MR. FRIED: Possession with intent to distribute.

THE COURT: If you've got proof of any other crime I won't take it. You know, proof of one of the social evenings --

MR. FRIED: No, not that.

THE COURT: Where people prepared an opium den -- If that is the type of thing you are talking about, I am not interested.

MR. FRIED: I am not talking about that type of thing.

THE COURT: I will take an offer of proof. I can't rule unless I hear the evidence.

MR. BELDOCK: I didn't express the arguments I had. This is not a question as you had with Mr. Etra coming in to testify and being subject to cross examination on a matter.

First of all, it is not that.

Second of all, as I understand it, the testimony that Mr. Fried intends to elicit will be testimony which is not an admission of any sort of Mr. Ornitz -- that would give us the basis to come in before --

Levine - direct

THE COURT: I can only take the admission against Mr. Ornitz and for any other purpose, don't offer it.

MR. FRIED: It is an admission against Mr. Ornitz, but also a description of the internal workings of the conspiracy.

MR. BELDOCK: I am sorry, Judge, we have all been privy to this discussion and your Honor has not.

THE COURT: Is it something that Mr.

Ornitz described as to how Mr. Freeman operated?

MR. FRIED: It relates to that.

THE COURT: We've got the Bruton problem.

I won't allow it for the sole purpose of implicating Mr. Freeman.

MR. FRIED: It is admissible on two theories.

Mr. Ornitz is charged with being a co-conspirator

in this case and as a co-defendant in the

indictment. It is an admission against him

as to the conspiracy and how it operated.

THE COURT: If it implicated Mr. Freeman

I will totally disregard it.

MR. WALL: One question. Is Mr. Fried about to introduce any conduct admitted to by

Levine - direct

Mr. Ornitz, which occurred after May 15, 1973?

THE COURT: May 15th?

MR. WALL: Which, I believe, is the date of the conspiracy charged in this indictment. If he is going to go back to usage by any drug by Mr. Ornitz long before that, he is not talking about this case.

THE COURT: A prior similar act is -
if you can show a substantive criminal act it

sometimes shows that the parties were in business
before.

Some lawyers describe it as an inference running backwards.

MR. WALL: I am saying it has no relationship to this conspiracy.

THE COURT: What you are talking about is Mr. Ornitz particular activities prior to the beginning of this conspiracy?

MR. FRIED: That is correct.

THE COURT: Can you generally tell me what it is?

MR. FRIED: It happens to be that prior to the formation of the conspiracy, at least on the day charged in the indictment which is

Levine - direct

sometime in May of 1973, Mr. Ornitz purchased a quantity of cocaine on many occasions from the other defendants.

MR. BELDOCK: I object to many occasions.

MR. FRIED: 5 or 6 occasions.

Secondly, he was told by the defendant where the cocaine was coming. The source is the co-conspirator George Moro in this case.

Thirdly, at one time, the defendant,

Mr. Ornitz, according to this testimony -
this offer of proof will show -- had purchased

the cocaine from George Moro, who is named as a

co-conspirator in this case.

THE COURT: What was the time relationship?
How soon before May 15th?

MR. FRIED: The admission -- the period of time was unable to be fixed except within the last year or so.

MR. WALL: My recollection is 3 to 5 occasions during the past 18 months.

MR. BELDOCK: And prior to this particular date -- prior to March of '73.

THE COURT: I am going to take it. I might confess I am troubled and I knew that

Levine - direct

someday I would have to meet the problem of whether the ultimate user is a part of the conspiracy. I have never seen anything on it.

MR. WALL: That would sort of wipe out all the possession laws in the country, wouldn't it?

THE COURT: I will take it, and I will think about it.

MR. FRIED: I want to make the Government's position clear.

Mr. Ornitz is charged in this case
with participation in a conspiracy. The theory
is, of course, that he, number one, was some
sort of a user and participator in the acts --

THE COURT: I don't want to comment
on that. I don't want to compromise my position.

when a judge sitting on a case says something, there are 15 interpretations and usually 15 are wrong or 14, at least, are wrong.

MR. WALL: Why don't we sit and listen, and I will move to strike?

THE COURT: And cross examine. And I will hold it and we will talk about the theory

Levine - direct

of a user as part of the conspiracy, and then whether if it shows he was, in the past, a purchaser, and used narcotics, cocaine, and it came from the source you claim he potentially would have gotten it, whether that actually put him in the conspiracy -- because a user usually doesn't perform any act to bring him into the conspiracy until he buys it.

MR. WALL: May I make one final comment?

If we are talking about cocaine, the proof is

going to be Mr. Ornitz thought there might be

cocaine in those bags.

If Mr. Fried is going to go into that phase of it, you said the cocaine in those bags had nothing to do with the case.

THE COURT: I am not turning my back on what I said. It is another theory, and that is why I am troubled by it. How a user can be part of a conspiracy before he does anything to act as a user.

MR. FRIED: I want to qualify what I said. I think there has been a misunderstanding.

The proof against Mr. Ornitz, in this case, is not that he was the ultimate user

Levine - direct

sitting and waiting for the cocaine, but in the past, as the evidence will show, he had dealings with the person.

Mr. Ornitz is not in the conspiracy only by virtue of being an ultimate user at the end of the chain, but rather involved in the importation.

(continued on the next page.)

MP:cp take 3/2 2 Levine - direct

THE COURT: I will take the testimony.

I might say it is an interesting argument
whichever way it goes. I don't recall any
case before me where the ultimate user who
is someone on the street that is brought in
to the conspiracy.

The ultimate user creates the market, in a sense. He is the very reason for all the activity.

I had one lawyer argue before me two
weeks ago that the big supplier wasn't to blame
at all. The fellow to go to jail for a long time
should be the user, because without him there
wouldn't be any supplier. I listened to that
for 15 minutes and I'm sure 14 minutes were
wasted.

But that is the argument he made. I suppose you are taking his position now.

MR. FRIED: No. I am trying to qualify the misunderstanding that Mr. Ornitz is charged with being the ultimate street user of this cocaine.

THE COURT: Of this cocaine?

MR. FRIED: He is not. The theory of

Levine - direct

the Government is not that he is in the conspiracy by virtue of being the ultimate user, what I was saying before is that the defendant Ornitz, in the past -- his course of conduct with the defendant Stanton Freeman indicates his knowledge of what was going down, to use the vernacular, on this occasion.

THE COURT: I think that is in the record. He was the one that suggested they go down to Freeman.

MR. BELDOCK: To see if they can get a blow.

THE COURT: A blow of coke, I think.

MR. FRIED: I am offering this evidence to show specifically --

THE COURT: I will take it.

MR. FRIED: I want to clear up the misunderstanding.

THE COURT: I know what your theory is,
but I am also aware of the fact that there
is nothing in this case -- well, I am not going
to say it. Go ahead. That wasn't a period. I
was going to continue. I just meant to say that
it is difficult to bring in a user if we believe

Levine - direct

the principle I charge you must show that the parties did something knowingly and wilfully, to bring him into the conspiracy.

MR. FRIED: The Government is not bringing in the user.

THE COURT: What do you say he is?

MR. FRIED: He is a participant in the conspiracy to import this cocaine.

THE COURT: All right.

As I say, there is no sense arguing it now. Put your proof in. If I find it isn't relevant it will be stricken and certainly testimony of the past that he bought cocaine from Mr. Friedman is totally irrelevant. As we understand Pruton, it can't be considered and I will tell you it won't.

MR. FRIED: I understand. It is not being offered on that theory.

Mr. Levine, on the time that you were in the office of the United States Attorney for the Eastern District of New York and Mr. Ornitz was present with counsel, and myself, would you tell us what, if anything, he said concerning any past conduct?

A Yes. Mr. Ornitz was first asked whether he knew

Levine - direct

Stanton Freeman. That is whether he knew him to be a person who sells cocaine.

He said yes.

I asked, had he bought cocaine from Stanton in the past and he said yes.

I asked him on how many occasions, and he said, from 3 to 5 times.

I asked during what period of time, and he said during the past two years.

I asked him what was the most he bought, quantity, from Stanton Freeman, and he first stated a quarter of an ounce.

I asked him how much did he pay, and he said 2 to 3 hundred dollars.

I asked him what was the most that he knew Stanton Freeman to sell.

MR. WALL: Excuse me. That is something different.

THE COURT: I agree.

Sustained. It is not an admission against this defendant but a statement charging

MR. BELDOCK: It is not an admission against Freeman.

Levine - direct

THE COURT: I say an attempt to charge Fried. Objection sustained.

Strike that out.

Go ahead.

O Continue.

A I later asked him again what was the most he had bought and he then said an ounce of cocaine was the most he bought from Stanton Freeman.

I asked him how much did he pay for the ounce and he said 12 to 13 hundred dollars for the ounce.

Q Did you have any conversation concerning George Moro at the time?

A Yes.

Q Tell the Court, limiting yourself to that conversation, what was said.

A I first asked him if he knew George Moro to be a source for cocaine for Stanton Freeman. He said yes.

I asked him if Stanton Freeman ever told him that he gets coke from George Moro.

MR. WALL: Objection.

MR. BELDOCK: I ask that it all be stricken.

THE COURT: What is that admissible?

MR. FRIED: Because the response that

Levine - direct

George Moro is a source of cocaine is relevant to a conspiracy in which it is charged both Mr. Freeman and Mr. Ornitz obtained it from the link being George Moro.

THE COURT: I will allow it.

A He said yes. Stanton Freeman told him he gets coke from George Moro.

I asked him if he ever bought cocaine directly from George Moro and he first said no, but later on in the interview he said he bought a small quantity once, directly from George, that was a spoon.

MR. FRIED: I have no further questions.

THE COURT: Mr. Beldock, any questions?

MR. BELDOCK: Let Mr. Wall go first.

I think it is more appropriate.

THE COURT: All right.

CROSS EXAMINATION

BY MR. WALL:

Q Mr. Levine, you just testified that Mr.
Ornitz admitted knowing something of George Moro. Didn't
Mr. Ornitz tell both you and Mr. Fried he knew a person
named George but the last name Moro didn't mean anything
to him? Just a person named George? Did he tell you that?

A Not entirely. If I can relate what happened --

Levine - cross/Wall

Q	Incidentally, when you were listening to	o Mr.
Ornitz, you	were making notes, am I correct?	

MR. FRIED: This is exhibit 3.

MR. WALL: All right.

- A That is correct, George, a Brazilian.
- Q When you ask him the questions, you didn't mention the name Moro?
- A I think I did.
- Q Didn't he say all he knew was there was a fellow called George in Brazilia?
- A I don't recall that specifically. I recall George was described as Brazilian.
- Q During this conversation, did Mr. Ornitz ever tell you that he knew that George's last name was Moro?
- A I can't recall him specifically saying that.
- Q Can you recall him specifically saying the name Moro wasn't familiar to him, but there was a Brazilian named George?
- A I can't recall that.
- O Did Mr. Ornitz tell you that the place
 Mobias where Wanda worked, was on 5th Avenue and 46th
 Street?
- A I believe he did.

Levine - cross/Wall

Q	Almost	around	the	corner	was	the	Japanese
Restaurant	Ido?						

- A He possibly told me that.
- Q Did he tell you that it was Mr. Davis who had made a suggestion for a Japanese restaurant?

 A He stated that Mr. Davis offered to pay for their supper. He might have said he suggested a Japanese restaurant.
- Ornitz say -- tell you that when Jock Davis stated he would like to go to a Japanese restaurent, Kim Ornitz said that is cool or that is great, there is a great place called Ido where Wanda works -- does that refresh your recollection?

A Possibly.

- Now, did he tell you when walking along in the Times Square area as they passed the Diplomat, he asked Jock whether Jock would like to take a look at a fancy bar and possibly see Stan Freeman and maybe obtain a blow of coke?
- A I believe he used the term, do you want to see -he told me -- do you want to see a fag bar or might have
 said do you want a blow of coke.
 - Q He told you when they went down to Le Jardin,

Levine - cross/Wall

the doors were blocked?

- A I don't recall that specifically.
- 2 Did he also mention to you that he had some time to kill because of the Happy Hour at Ido didn't start until 5:30?
- A J believe he did say something.
- Q Did he, since they don't have to or couldn't show up until 5:30, they had time to kill and that when he made the suggestion to Jock, that he go look at the fag bar --
- A No, I think he said passing the Hotel Diplomat, he suggested to Mr. Davis.
- Q Now, you asked him specifically, did you not, during the period of conference, whether or not he was told by Stanton Freeman that the coke which might be in those bags belonged to somebody involved in smuggling cocaine into the country, you asked him whether or not he had been told that?
- A I believe that during that conversation we established there was coke in the Pags.
- Q Didn't you then ask Mr. Ornitz in words or substance, when Mr. Freeman told you there might be coke in that bag, did he also tell you that the bags belonged to a person who was smuggling large amounts of cocaine into

Levine - cross/Wall

the country?

A No, I think my question was that it belonged to a fugitive.

Q You didn't ask him about the cocaine part?

A Fugitive.

asked Mr. Ornitz whether Mr. Freeman had told him that the bags were involved in a narcotics or a cocaine smuggling case, you wanted to know whether he knew from Mr. Freeman that the bags belonged to a person who was wanted for being involved in a cocaine smuggling case -- you asked him that question?

A I recall asking him specifically that whether Mr.

Freeman told him that the girl was wanted or the girl was
a fugitive and he denied it, he said no, he didn't tell
him she was a fugitive.

o Did you attempt to find out from Mr. Ornitz in this conference, where any of his answers would -- could be used against him or whether he knew at the time he walked with Mr. Davis up to the Paramount that the bags belonged to someone wanted for smuggling cocaine into the country?

A The only way I can answer that is to say that I know, I first asked him if he knew that she was a fugitive

Levine - cross/Wall

and he denied that, I probably did say do you know she was wanted for cocaine smuggling, but I don't recall.

your recolletion if I was to tell you there came a time when Mr. Ornitz' answer to one of your questions was:

No, if anybody had told me that, I would have run, I would have gotten out of there, I would have blown, I would have told my feet to start moving; do you recall an answer like that?

A I believe he might have said that in response to a question about is she a fugitive.

Q But you do have a recollection that there was an answer he gave where he said he would run?

A If he knew she was a fugitive. His actions would have been different had he known she was a fugitive.

Q I got you. Good enough.

(Pause.)

(continued on the next page.)

Q He might have said that, to your knowledge, merely with the word, "fugitive," not including the word cocaine, am I right?

A That's correct.

MR. WALL: May I confer with Mr. Fried for a moment?

THE COURT: Yes.

(Pause.)

MR. WALL: This one item of testimony is preparatory to a motion to strike, and in light of the nature of the testimony given I want to phrase it carefully, and I would appreciate it if your Honor could just hear this one question on this issue:

You have testified, Mr. Levine, that during the conference in Mr. Fried's office, Mr. Ornitz stated that he, Ornitz, had made a purchase of cocaine, of an ounce of cocaine, for 12 to 1300 dollars.

A That is correct.

All right.

Now, I am asking you, think back, check whatever notes you may have to look at, I ask you whether or not what Mr. Ornitz had said at that time was that he was not

the purchaser.

A I recall exactly what you are talking about, and that is a separate deal that he was present on that you are referring to.

Mr. Ornitz, to my recollection, first stated the most he had bought was a quarter of an ounce.

He later, toward the end of the conference, said that he had bought an ounce, he himself.

When you took these notes, Mr. Levine, you would occasionally ask further questions and refine what you had put down on your notes, did you not; in other words, you would add things in parenthetically afterwards when there was some qualification made on a matter as to which you had written up.

Take a look at it and tell me whether that is not what you did on that occasion?

A Not at every question and quite often during the conference I completely failed to note down at all.

What I am saying, Mr. Levine, is that once you made a note, if on further questioning there was to be a qualification of what is contained in that note, you made it a practice, did you not, of adding to the original note so as to reflect accurately what you were being told by Mr. Ornitz?

A Again, I state I did not make it a practice. A few times I did. One or two times I did, and for the most part, I was too engrossed in questioning the man to keep complete notes as to what was going on.

C Did you have any theory in mind which would cause you on one occasion to make an addition to a note and on another occasion, to make none?

A Theory?

- Q Yes, did you have any standard by which you guided your notetaking practices that day?
- A No, I had no standard in mind whatsoever.
- You will concede, will you not, directing your attention to Government exhibit 8, that you have included here, "most I bought was one-quarter ounce"; right? That is in your handwriting, is it not?

 A That is correct.
- And you say that later on in the conversation Mr. Ornitz said that there was an occasion when he bought an amount that cost him 1,200 to 1,300?
- A That is correct. I say right near the end of the conversation.
- And is there room on that piece of paper for you to have made any additional notation of such a dramatic change in his statement to you?

1		Levine - cross/Wall	557
2	A	If I turn it sideways.	
3		Q There isn't room for you to put that in	7
4	A	Sure there is.	
5		Q You did not do it, did you?	
6	A	I did not do it, that's correct.	
7		Q When you heard him make his statement w	hich
8	you sa	y you heard, did that seem to you to be an impo	rtant
9	change	in what he had told you before?	
10	A	Very important, and I was trying to get Mr. Fr	ied's
11	attent	tion, who was busily engrossed with you in a con	versation.
12		Q But you made no note of it?	
13	A	No, I did not.	
14		Q Did you tell Mr. Fried afterwards that	he
15	change	ed substantially the amount that he had previous	ly
16	admit	ted purchasing?	
17	A	I did tell Mr. Fried that he had changed.	
18		Q And you told him	
19	A	I believe I told Mr. Fried that he had said	· I
20	don't	specifically recall saying he had changed, but	I did
21	tell	Mr. Fried he had said he bought a significant ar	nount,

Q Did you say, "a significant amount, Mr. 23 Fried, which is an ounce"?

which is an ounce.

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A I told Mr. Fried that - I don't want to again say

anything improper --

- Q A simple question, Mr. Levine. I'm asking you, you have conceded that there is no reference on your notes to an admission by Mr. Ornitz of purchasing an ounce of cocaine for 12 to 1300 dollars, am I correct?
- A That is perfectly correct.
- Q Fine. And you do admit that there is a reference which says, "the most I ever bought was a quarter ounce"; am I correct?
- A That is correct.
- Ornitz make that statement, did you then tell Mr. Fried,
 who, as you say, was busily engrossed with me, that Mr.
 Ornitz had changed his statement and now admitted purchasing
 an ounce for 12 to 1300 dollars; did you tell Mr. Fried that?

 A that time I simply stated to Mr. Fried that he,
 on one occasion, bought an ounce.
- Q When was the first time you told Mr. Fried of that change in Mr. Ornitz' statement? When did you first give the information to Mr. Fried that Mr. Ornitz later admitted to you making a purchase of an ounce?
- A I never stated that he changed his testimony. I simply stated to Mr. Fried that he said he purchased an ounce for 12 or 1300 dollars.

Levine - cross/Wall

1 Would it be fair to say that the first time 2 Mr. Fried heard that was when you testified to it a few 3 minutes ago on the witness stand, insofar as you know? 4 MR. FRIED: I think it is improper --5 The first time Mr. Fried heard that, no. 6 A MR. FRIED: I object. 7

THE COURT: May I hear that question?

(Question read.)

THE COURT: Objection sustained. Argumentative.

Anything further?

MR. WALL: Nothing further.

May I offer this in evidence?

THE COURT: Any objection?

MR. FRIED: No objection. I believe it

is in evidence.

MR. WALL: Let me look at it.

MR. FRIED: It is marked for identification.

MR. WALL: I have no further questions,

your Honor.

THE COURT: Mr. Beldock?

MR. BELDOCK: I will be through with

this in a moment, your Honor.

THE COURT: Do you object to those

notes?

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MR. WALL: I am not offering them, your Honor.

THE COURT: You are withdrawing it?

MR. WALL: Yes, your Honor.

THE COURT: Start your questioning, Mr.

Beldock.

CROSS EXAMINATION

BY MR. BELDOCK:

Ornitz, Mr. Fried and Mr. Wall, had you been advised by Mr. Fried or Mr. Silvestro of any aspects of the conference that we held on August 16?

A Yes, I was.

Q Specifically, did you learn from Mr. Fried or Mr. Silvestro that Mr. Freeman had been questioned about any prior activities regarding cocaine?

MR. FRIED: Objection, your Honor.

THE COURT: Objection sustained.

Q When you were at this conference with Mr. Ornitz, is it true that Mr. Ornitz said, in response to questions, that Mr. Freeman did not say anything to the effect that the lady who owned the bags in the hotel was a fugitive?

THE COURT: Is this reverse Bruton?

Levine - cross/Beldock

Do you want to get into negative statements

MR. BELDOCK: I have your point, your

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A During that conference, I don't recall whether he did or he didn't.

associates?

A I don't recall asking him that question.

Q Did Mr. Ornitz tell you that he and Mr.

Freeman, from time to time, shared cocaine?

A I don't recall that at all.

May I have a moment?

Honor.

that Mr. Freeman did not make?

Let me see whether Mr. Ornitz made any of these statements then. Did Mr. Ornitz indicate to you that from time to time he and Mr. Preeman had accommodation transactions and I use the word advisedly, accommodation transactions between them in regard to the purchase of coke and the use of coke?

A During our entire conference the word "accommodation" never came up. I never heard that word mentioned.

Q Did Mr. Ornitz say to you from time to time -first of all, did Mr. Ornitz tell you that he and Mr.
Freeman were friendly for a long period of time?

Q Did you ask him whether they were business

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Q Did Mr. Ornitz tell you that he and Mr. Freeman, from time to time, even pooled their money to purchase cocaine for their own use?

A I don't recall him telling me that at all.

MR. BELDOCK: I have no further questions.

THE COURT: Mr. Fried, do you have

anything?

MR. FRIED: Your Honor, I have no further questions.

MR. BELDOCK: Before you rest --

MR. FRIED: I am not ready to rest.

THE COURT: Mr. Wall, do you have any

further questions?

MR. WALL: I have no further questions.

THE COURT: Is that the Government's

case?

MR. BELDOCK: I have an application to recall Mr. Silvestro for literally two minutes, I think, in view of Mr. Levine's testimony.

THE COURT: All right, Mr. Silvestro, will you please resume the stand?

(Witness excused.)

JAY SILVESTRO, having previously been duly sworn, resumed the stand, and testified further as follows:

RECROSS EXAMINATION

BY MR. BELDOCK:

- Q Referring again to our August 16th conference, was there questioning directed to Mr. Freeman at that time, concerning his prior use of cocaine?
- A Yes, sir.
- Q Do you recall also, such questioning directed to Mr. Freeman's relationship with Kim Ornitz?
- Mr. Freeman made reference of his relationship with Mr. Ornitz; however, to the best of my recollection, it did not relate specifically to those comments by Mr. Freeman which I previously testified to about his use or purchase or sale of cocaine.
- Q Did Mr. Freeman tell you in response to questions that, yes, on prior occasions he had purchased cocaine from George?
- A That is correct, yes, sir.
- Q Did he also tell you that from time to time,
 he and Kim Ornitz shared cocaine for their own use?

 A That is correct, yes.
 - Q Did he also tell you from time to time that

Silvestro - recross

he and Kim Ornitz may have pooled their money to buy cocaine for their own --

A I do not recall that specifically, sir.

MR. BELDOCK: No further questions.

Thank you.

THE COURT: Any questions of Mr. Silvestro?

MR. WALL: No, sir.

MR. FRIED: I have no questions.

(Witness excused.)

(continued on the next page.)

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MR. WALL: We have a document going in by agreement, your Honor, which is now Government exhibit 54.

MR. FRIED: This, your Honor, is the record of the phone call made from Connecticut to New York City by Mr. Ornitz.

THE COURT: Any objection?

MR. BELDOCK: No objection.

MR. WALL: No objection.

MR. FRIED: No objection.

THE CLERK: So marked as Government's 54 in evidence.

(So marked.)

MR. WALL: The time of the call being 12:09, your Honor.

THE COURT: June 17th.

MR. FRIED: June 18th from New Haven, Connecticut, to New York from New Haven.

THE COURT: All right.

MR. WALL: I'm going to move to strike
that portion of the testimony of Agent Levine
to which objection was made about 15 or 20 minutes
ago on the ground that in no way can the testimony
of prior dealings between Mr. Ornitz and Mr. Freeman

of the type brought out over the duration, brought out and in the number of times brought out in any way causes any person to draw a rational inference as to any agreement between Mr. Ornitz to do anything more than the slight evidence shows him to be involved in this case.

THE COURT: Motion denied. I think that it had some bearing on knowledge.

MR. FRIED: Your Honor, there is --

THE COURT: Is that the Government's

case?

MR. FRIED: The Government rests, but
before I do so, I would like to resolve one
thing with Mr. Wall. I want to avoid any
suggestion of suppression of any kind. Mr.
Wall was questioning in detail Mr. Levine concerning
the statement Mr. Ornitz made in my office,
and the testimony was that there was a sale
or purchase of cocaine for \$1200, and I have a
recollection of a \$1200 amount which related to
a different sale, and I have a recollection in
my office that there was conversation about
purchasing between Ornitz and Freeman.

I don't have any recollection as to the specific amounts. Mr. Wall is directing himself to that directly.

MR. WALL: So that we are specific about it, I believe it to be Mr. Fried's position that his recollection is that the 12 to 1300 dollars mentioned involving a purchase was not a purchase in which Mr. Ornitz was the purchaser.

MR. FRIED: My position is that I didn't hear the entire conversation, and what I did hear, because there were, as you heard, talking in the corner of the room, what I did hear of it related to a transaction which did not come out. My position is not that this conversation did not occur, but merely that I did not hear it.

THE COURT: I can tell you that even though I didn't strike it, because I didn't think it was proper to strike, I think it has little do to with this case.

The Government rests?

MR. FRIED: The Government at this time rests.

MR. WALL: The defendant Ornitz moves at this time, your HOnor, for a judgment of acquittal on the grounds that the evidence thus far introduced by the Government, in no way implicates Mr. Ornitz --

THE COURT: Why shouldn't it be granted, Mr. Fried?

MR. FRIED: Well, your Honor, the first piece of evidence that suggests it should not be granted is the phone call that was received by Mr. Ornitz from Jock Davis in Connecticut at a time in which -- and the second call that was received by the witness at the Hotel Paramount that a man named Davis was coming to pick up the bags.

The only way that that information could have been conveyed to the hotel on the testimony, as the testimony showed, is as a result of the phone call that Mr. Davis made to Mr. Ornitz, which would suggest and prove that Mr. Ornitz, prior to the time that Mr. Davis arrived in New York, was aware of the bags, was aware of the importation, and was actively --

THE COURT: You say from the phone call, the recorded phone call --

MR. FRIED: That's correct. Because the subject matter of the phone call certainly did not relate to cocaine or importation.

THE COURT: From that alone you would infer that he knew that Tambini was coming in on Pan American Airways?

MR. FRIED: No. I am inferring -- the

Hotel Paramount received the phone call before

Davis ever arrived there.

THE COURT: Yes.

MR. FRIED: Which meant that whoever was picking up the bag, if they were sending Davis, Mr. Davis ever knew he was going to be going to the Paramount, would have planned to use him to be the person to pick up the suitcases.

THE COURT: What does the record show?

MR. FRIED: The record shows that.

THE COURT: The record shows that it was Mr. Freeman that called?

MR. FRIED: Right. But the only way
Mr. Freeman would have known that Jock Davis

was coming into New York at that time would have been an inference that Davis called Ornitz, and then when Ornitz received the phone call, he called Mr. Freeman.

THE COURT: And when Davis called Ornitz,
you want me to infer that Ornitz talked about
the plan to pick up the cocaine by using Davis?

MR. FRIED: Not with Davis. I want you to infer from the fact that Ornitz knew that these suitcases were in the hotel, that they belonged to the fugitive, the girl who had been involved in the importation --

THE COURT: That Ornitz knew that at the time the phone call was made from Ornitz to Davis, is that what you want me to infer?

MR. FRIED: That is correct.

THE COURT: Never.

MR. FRIED: And you can also infer that,
your Honor, from the telephone call that was
recorded between Davis and Ornitz, the tone of
the conversation, the false exculpatory statement
that was made, and after the two false exculpatory
statements were made, you had the reaction from
Mr. Ornitz in which he says, "Ridiculous," which

indicates a knowledge that the -- the Davis
statement was incorrect and he knew what was in
those suitcases.

THE COURT: Motion to dismiss the indictment against Kim Ornitz is granted. The indictment is dismissed.

You are discharged, Mr. Ornitz. You get no awards for this. There is plenty in the case that indicates that you are not a great upstanding citizen, you know. All I am saying is the Government has not proved a case against you, and nothing else.

I am governed by rules of law, burden of proof and everything else, and we have got to understand that we must live by the rules.

MR. WALL: Thank you, your Honor.

MR. BELDOCK: Defendant Freeman makes the same motion for a judgment of acquittal on the Government's case, your Honor.

THE COURT: You don't expect lightening to strike twice, do you?

There is enough evidence here to hold this defendant in at the end of the Government's case. I will hear the defendant's case.

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MR. BELDOCK: All right, Judge.

May we have five minutes and then we will proceed promptly?

THE COURT: I will be back on the bench at a quarter after 4.

MR. BELDOCK: We will be ready.

MR. WALL: May I move to exonerate bail?

THE COURT: Bail is exonerated.

You might sit down with Mr. Ornitz privately and talk to him like a father and not like a lawyer.

MR. WALL: I have on at least one occasion already.

THE COURT: By the way, Wigmore on evidence, it might do us all a little good if we re-read it -- I knew what it said before, but in general language it goes from paragraph 2594 and then you can skip that and go to paragraph 2110, and it says in too general language -- I'm not going to get into discussion with you on it, however, you can go on offering what you call the whole admission, but I will get a case right on point and then I will read that Appellate Division case in my leisure. I am not a

betting man, but if I were I would bet you about a 100 to one it didn't stand for what you said.

MR. BELDOCK: Your HOnor, if you permit
me, I will give to you the brief that cites
my cases --

THE COURT: I only read cases, I don't read briefs. I will read the Appellate Division case.

MR. BELDOCK: The case that I relied on -THE COURT: I have got some of them.

Do you mean it stands for something like that,
isn't that what you are saying, something like
that?

MR. BELDOCK: No, I think the general principle applies that the Government --

THE COURT: Once an admission is made, then everything that was said that day goes in, right, whether it's related to the admission or not?

MR. BELDOCK: If it is not remotely related in any way, your Honor --

THE COURT: You read the record. If you can show me that is part of the evidence --

MR. BELDOCK: They were all talking about the period of conspiracy that is alleged, Judge, and therefore I have to assume --

THE COURT: I am glad they didn't have a Doberman Pinscher in that apartment, or I would have heard about him.

MR. BELDOCK: There was a dog that
Mrs. Rudner supposedly had someplace, and we
kept that out.

(continued on the next page.)

THE COURT: Proceed, Mr. Beldock.

MR. FRIED: Mr. Beldock, do you have any objection to Mr. Levine and Mr. Silvestro remaining?

MR. BELDOCK: Not at this moment, certainly. If I have any, I'll raise it. I don't think so.

THE COURT: I did not hear that at all.

MR. BELDOCK: He asked whether there is any objection that I would have to Mr. LEvine or Mr. Silvestro staying in the courtroom. At this time, I have none.

THE COURT: Go ahead.

MR. BELDOCK: I call Brad Strange, as the first witness.

Mr. Strange will you come up?

May I say, your Honor, I've had this young man down here this afternoon. I would have preferred that he go after Mr. Freeman, and I will put Mr. Freeman on, but I ask that we put him on very quickly.

THE COURT: All right.

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JACK BRADFORD STRANGE, JR., having been first duly sworn by the Clerk of the Court,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BELDOCK:

- Q How old are you, Mr. Strange?
- 22 years old. Α
 - Q Are you presently employed?
- Yes. A
 - Q Where?
- Delanor Caterers, at the Diplomat Hotel. A
- Q Is that in connection with any particular function at the hotel; any particular place?
- Yes.
 - Q What's the name of the place you work at?
- Le Jardin. A
 - Where were you employed in June of 1973?
- Le Jardin. Down in our caterer's.
 - O You know Stanton Freeman?
 - THE COURT: Where is that? Down in the

what?

THE WITNESS: Where?

THE COURT: You used another name.

THE WITNESS: Delanor Caterers is my

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Q Do you recall an occasion approximately mid-June of '73 where you had a conversation with Mr. Freeman

couple of weeks afterwards.

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1	4	780 Strange-direct
2		hotel? Don't tell me the conversation now. If you
3		an occasion?
4		
5	A	I remember the phone call, yes.
		Q A phone call came first?
6	A	Yes.
7		Q To where?
8	Α	To my hotel room.
9		Q Where is your hotel?
10	A	I was staying then at Times Square Hotel.
11		Q And there was you can't tell us the conver-
12	sation	
13		Did youactually take that phone call?
14	A	I didn't take the phone call, no. I didn't receive it
15		Q Did someone else someone else tock it who
16	was wi	th you?
17	Α	Someone else took it.
18		Q λ man or a woman?
19	A	Female.
20		Q Sometime after the phone call came in, did you
21	go dow	m to the Hotel Diplomat?
22	A	Yes.

About what time did you arrive at the Hotel

A About between five and five-thirty sometime.Late

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Q Did you come alone or with someone?

With someone else.

Q The same lady you referred to before?

A Right.

Q Where -- withdrawn.

Did you see Stan Freeman there at that time?

A I saw him at the hotel.

Q In relation to the time you arrived, was it shortly after or when?

A It was immediately after I got there. As I was walking up the steps, he was at the top. He was at the office where I was going.

THE COURT: You have to speak a little louder, Mr. Strange. I'm having a little difficulty hearing you.

THE WITNESS: Okay.

BY MR. BELDOCK:

Q Did he say something to you then? Did you say something to him then?

A Well, he was -- he spoke to the lady that I was with, not directly to me, and then later to me.

Q What did he say to you -- what did he say in your presence at that time?

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1	6 Strange-direct
2	A I heard him say, "Forget about it; it's already been
	taken care of, don't worry about it."
4	Q Now, from anything any part of that conver-
5	sation, did you have a did you learn what that was about?
٥	A No, I had no idea.
7	Q You had a conversation with him later about
8	this?
9	A No. Never saw him after that.
10	MR. BELDOCK: I have no further questions.
11	THE COURT: Mr. Fried?
12	MR. FRIED: One minute, your Honor.
13	Could the reporter read back the last next
14	
15	to last question and answer? I believe I have
16	no questions.
17	THE COURT: Surely. Suppose you read the
	last three or four back.
18	(Record read.)
19	MR. FRIED: I have no questions of this
20	witness.
21	MR. BELDOCK: Thank you.
22	THE COURT: Thank you.
23	Next witness, please.
24	MR. BELDOCK: The next witness is
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	Mr. Freeman, your Honor.

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I am ready to proceed, if your Honor thinks it's appropriate, but I would suggest that we are going to have a long examination obviously on direct, and we are -- at least, I am exhausted. This has been a very hard week and I would prefer, and I think it would be in the interests of all concerned, to start fresh with Mr. Freeman.

We will have all our witnesses ready and move as swiftly as we can on -- I assume it's on Monday.

I am sorry we could not do any better, your Honor, but I really think that that would be in the best interests.

THE COURT: All right. This case will continue Monday at one o'clock.

I intend to usetthe morning to pick
a jury in another case. I am going to direct
the lawyers in that case to come in to start
the evidentiary part of their trial on Tuesday.

So you will have from one to 4:30, and with the grace of the Lord and the court reporters, we might even be able to go to five o'clock, but it must be finished in that time.

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Can you do it?

MR. BELDOCK: I think so.

THE COURT: Is Mr. Freeman your last witness?

MR. BELDOCK: No, but I have very short witnesses, otherwise. Very short. And in one instance, I will try to work out a stipulation with Mr. Fried.

I might even be able to work it out in two instances.

My other witnesses should not take a total of 15 minutes, Judge, 20 minutes, if that much.

THE COURT: All right. I don't know whether you will have time to go over what has transpired and whether you are interested in submitting a brief at that time. You use your judgment. If you are not able to, you can have a few days to do that.

MR. FRIED: Thank you, your Honor.

MR. BELDOCK: Your Honor, it occurs to me that I might want to add to my statement. It occurs to me I might want to call Kim Ornitz on our case.

I still do not think you will expand it by more than a half-hour.

THE COURT: You can call anybody you want to. I want you to understand one thing:

MR. BELDOCK: We will get --

THE COURT: That the time limits I suggest are not intended to be absolute. I just want you to know my problems in the hope that you can complete in time.

If it's only Mr. Freeman's testimony, from what -- from where I sit, it will probably be completed in time, with plenty of time to spare, but if it doesn't work out that way, I will have to make other arrangements.

MR. BELDOCK: Thank you.

MR. FRIED: Thank you.

THE COURT: Monday at one o'clock.

Take all exhibits. The lawyers from whom -from whose files the exhibits came should pick
them up and be responsible for them. It does
not matter whether it is marked a Government's
or Defendant's Exhibit.

If you, Mr. Fried, had an exhibit and Mr. Beldock marked it, the exhibit should be in

your file and the lawyers are responsible for all exhibits.

MR. FRIED: Thank you, your Honor.

THE COURT: Monday at one o'clock.

(Whereupon, a recess was taken until

September 17, 1973, at one o'clock p.m.)

2	WITNESSES					
3	NAME:		DIRECT:	CROSS:	REDIRECT:	RECROSS
4	Marc Etra			359	380	
5	Jay Silve	estro	385		513	514
6	Michael I	Levine	520	548		
7	Jack B. S	Strange, Jr.	576			
8						
9	EXHIBITS					
10	No.:	Desci	iption:	Id.:		In Ev.:
11	49 (copy of Marc		4 357		
12	50 N	lotes of Marc		ent 357		
13	50 F	otes of marc		view 358		
14	51 , 8	Statement of	Rights (Card 395		
15	3 & 4- 4D I	ocuments				405
16						
17	2 1	Photos				406
18	52 F	Baggage tick	et			524
19	53 /	Airline tick	et			524
20	54 I	hone record				565
21						
	E I	Document		483		484
22						
23						

				790	
2	UNITED STATES DISTRICT COURT				
3	EASTERN DISTRICT OF NEW YORK				
4		х			
5	UNITED STATES OF AMERICA,				
6	-against-	:			
7	STANTON FREEMAN,	:	73-CR-633		
8		:	. *		
9		x			
10					
11			d States Courth	ouse	
13		1:10	o'clock P.M. mber 17, 1971		
15	Before:				
17	HONORABLE JACOB MI	SHLER,	CHIEF U.S.D.J.		
18					
19					
20					
21	WINFRED D				
22	OFFICIAL COUR	T REPO	RTER		
3					

Appearances:

ROBERT A. MORSE, ESQ., United States Attorney for the Eastern District of New York.

BY: BERNARD J. FRIED, ESQ., Assistant U.S. Attorney

MYRON BELDOCK, ESQ., Attorney for the defendant Freeman.

. .

MR. FRIED: Your Honor, prior to commencing I would like to, for the purpose of the record, indicate that Miss Tambini's passport, in accordance with an agreement with the defense counsel, was withdrawn from evidence and the Government at this time offers a photocopy of the passport, which is Exhibit 18.

THE COURT: Do I understand the parties agree that the copy may be marked in place and substitution of the original?

MR. BELDOCK: Yes, sir.

THE COURT: All right, let it be so marked.

THE CLERK: Exhibit 18 so marked.

THE COURT: United States against Freeman, both sides ready?

MR. FRIED: Yes, your Honor.

THE COURT: Is this the first witness?

MR. BELDOCK: It is, your Honor.

(Continued on the next page.)

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needed an attorney to file and had one petition for musicians that were going to perform at the Electric Circus.

I had done some immigration work, and Mr. Stuart recommended me to Mr. Freeman.

And it's in that connection that you did work for him for the first time?

A That's right.

pid you receive any communication from Mr. Freeman during June of 1973?

A Yes, I received a phone call at my home in the evening, and I was on my way out to some appointment, in early June.

A No, except that I knew it was early June. I really have no way of verifying the date.

Q Okay. What did Mr. Freeman say to you on that occasion, if you recall?

Was in a hurry to leave, and I was trying to rush -- rush him. And he said that he had a friend, I believe a young lady from Brazil, with a baby who was his house guest, and she had some problem with immigration. And I questioned him briefly about it because I like to make sure there is no fraud involved in these things before I pursue it any further. And he said that she had been an applicant for

permanent residency, and the -- the American Consul gave her a tourist visa to enter the United States.

When she admitted this to the Immigration Officer upon arrival he paroled her in and marked the case for deferred inspection because under the Immigration Laws you cannot be a bona fide tourist and an applicant for permanent resident at the same time.

Q Of course you are making an explanation now of the status, not what he told you.

A Yes, I was involved. I like to know, you know, a little bit about the facts before I recommend an attorney. I told --

Q Did Mr. Freeman ask you anything about that case?

A No, except that -- I told him I couldn't represent her because I was with the Immigration Service and he said, "Well, could you recommend an attorney who could handle this for her, appear at the deferred inspection?" So I said, "I think so, I will give you the name of an attorney that started to handle my immigration ma-ters that I had before I went with the Department of Justice."

I may have told him, "Don't even mention my name, you don't have to tell the attorney where it came from, you know, I could have said just give the name of the

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attorney friend and let it go at that.

Q Did all this conversation take place Friday night or was that on the communication?

A Oh, I didn't -- I didn't have the telephone number of the attorney in my mind and I was in a hurry, so I said, "Stan, please call me in the office next week and I will give you this telephone number, you can give it to your friend."

Q Now, when you say next week does that refresh your recollection as to when he called you?

A It must have been a Friday night or I would have said, "Call me tomorrow morning in the office."

Q And then what is your best recollection as to when he called you and where?

A Next Monday in the office.

Q And at that time what did you say to him and what did he say to you?

A I just said, "This is Mr. Patero's telephone number and give it to your friend and let her call and I am sure he'll take good care of her."

Q And who is Mr. Patero?

A He is an attorney.

Q Who specialized --

A Who handled a lot of immigration matters.

Q That's the last time you heard from Mr. Freeman or anyone else?--

A That's right.

Q -- about this matter?

A That's right.

MR. BELDOCK: Your Honor, no further questions.

THE COURT: Any questions?

MR. FRIED: I have no questions.

THE COURT: You may step down.

(Witness excused.)

MR. BELDOCK: With the permission of the Government, agreement of the Government, I'd like to offer a stipulation about the testimony that Mr. Nicholas Patero would give if he were called. He is an attorney whom we agree handled this immigration matter for Theresa Costa. The stipulation would be as follows: That he first had any connection, contact with Theresa Costa in his office on June 13th, at which time she and David Duffy were there regarding this immigration matter.

That on June 13th he prepared or dictated a letter concerning the fact that he was actually

engaged until the 14th, which had been the day scheduled for the hearing; that that letter was picked up at his office on June the 14th in his absence, but it was picked up, and that although in the letter he had requested an adjournment to the 21st or the 22nd, the Immigration Service set the adjourned hearing date on for June 18th; that he did see Miss Costa or Mrs. Costa on June 18th at his office directly before the hearing, and that he took her over to the hearing at the approximate time it was scheduled, which was one P.M. He did not see Mr. Duffey on that day.

Further, that the Immigration problem had to do with a deferred inspection hearing; that there had been an application for a permanent visa and that there was a conflict with the visitor's visa, and that on June 18th the problem was resolved and Mrs. Costa was admitted on a visitor's visa with the expiration date September 18, 1973.

Mr. Patero would further say that he did not know and was not told who had referred the client to him. There was no communication between

himself and Mr. Freeman and there was no communication between himself and Mrs. Cameron nor between himself and anybody else until these people came in his office.

THE COURT: Is that the stipulation, Mr. Fried?

MR. FRIED: The Government agrees to that stipulation.

MR. BELDOCK: We have a further very short stipulation between Mr. Fried and myself regarding the testimony that would be given if David Duffy were called under oath and testified on the defense case. That stipulation is as follows:

Mr. Duffy would testify that on June 14th.

and 15th, during all of the conversations that

took place in the lawyer's office -- and I mean

Mr. Katz's firm -- and during the times that

George Morao was discussing his knowledge of the

events of this case, there was never any mention

by Morao or anyone else of Stanton Freeman's

name or of anybody else that would fit his des
cription.

MR. FRIED: The Government consents to that stipulation.

relation to that multiple set of talents? A Well, several artist. I am into producing, including

myself. I am personally rehearsing for night clubs,

Exactly what are you involved in now with

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A I would say it was 1971. I believe it was prior to

my leaving for California to do business there, which would

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Freeman?

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have been early February, late January of '71. I was then in California approximately six -- seven months and on my return resumed my relationship with Mr. Freeman.

So you had -- you would have resumed your relationship approximately the fall of '71, is that right?

A Right.

Q What was that relationship and tell us how it has developed and so on.

Well, basically on first meeting Mr. Freeman in
'71 he was Stan Freeman, and my friendship with him was
purely from a -- a business point of view.

Q Well, you said he was Stan Freeman. What did you mean by that?

Mell, a very influential man, knew a lot of people, might be able to benefit my career in the music industry.

At that time I was 19, I believe, of a very young age, and needed all the help I could get. And finding influential people and getting in the right circles was very hard to do.

Q Go on and tell us what happened with your relationship.

A Mr. Freeman was very businesslike, as most other people of his stature I approached at that time who are -- never heard of you, really wasn't sure of my work. The relationship progressed after about six months of my

knowing Stan. It turned more from a business relationship into a friendship. I became close with him and really wasn't looking for him to do me any favors business-wise, get me any work business-wise, he just, you know, turned into a friend. A good friend.

Q I see. Well, did you do business with him over the years?

A Yes, I did.

(Continued on the next page.)

2	Q	Describe	e the	nature	of	your	business	relationship
,	with Mr.	Freeman						

- A I would --
 - Q (Continuing) -- to date.

To date, right up to now, I would go in the studio and make product, record product, spend my rent money to make it, and present it to Mr. Freeman to see if he could market it.

And our relationship has gone along basically those lines, to this date, except if I bring him product now, it's basically for him to listen to it, not desperately for him to sell it.

- Q Was he able to sell some of your product?
- A Yes, he was.
 - Q Give us some samples?

An artist by the name of Jessica Harper, a deal was consummated with RCA Records, I believe it was a year ago.

We presented a product, and the deal was finally terminated or consummated in late spring.

Q During the time that you have known Mr. Freeman, did you know of any change in his business life and his social life?

A Personal observations, yes. When I met Mr. Freeman, he was -- he had -- you know, he had owned a night club, or a very I guess, well-to-do --

THE COURT: Is this character evidence, Mr.

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Beldock?

MR. BELDOCK: No.

THE COURT: What is the purpose of this?

MR. BELDOCK: I am developing the relationship, your Honor, just as the Government has developed relationships, but I will take your Honor's suggestion and move this along swiftly.

Perhaps you could give us, in one short answer, the information that that question was directed to, and then we will move along.

Yes.

Were there any major changes?

Major changes? A man who's had quite a large amount of money, and used to living a certain kind of life, from my observations -- and I asked him many times, how -- you know, like "How are you going through this adjustment, isn't it rather difficult?"

Let me -- I don't want to cut you short, but in other words, you are saying there was a major adjustment because of financial reasons?

Well, I felt in Mr. Freeman's mind, in terms of just the kind of person he was, he was going through major changes.

Let me bring you up to the period that is pertinent to this case. Did you see Mr. Freeman during the period of April, May, June of '73?

A	Not as often as I would have liked to. He was very
ir	avolved in construction and rebuilding and designing of a
a	nightclub he had been commissioned to do, and it seemed
to	be taking up quite a bit of his time.

A I was -- well, I was handling -- I was rehearsing with a piano player, Brian and Wells, and handling business that Mr. Freeman could not handle because of his involvement in this club, which involved quite laterhours.

Now, directing your attention to June of '73, let's say the week beginning June 10, '73 -- I will withdraw that.

You say you hadn't seen it as often, but had you seen him from time to time during that period?

- A Yes, from time to time.
- Q The previous period? And had you spoken to him on the phone occasionally?
- A Surely.
- Now, let's get to the period beginning June 10,
 '73, which is a Monday, as we all have established on the record.

 During that week, when, for the first time, do you recall seeing
 Mr. Freeman?
- 23 A On June 13.

- Q Tell us where you saw him?
- 25 A I saw him at Le Jardin.
 - Q What is the background to your seeing him on that

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Q What did you do and when? I walked down -- I finished my rehearsal approximately three, I think, thirty, walked down to the club and said I'd be happy to do the sound. And the technician hadn't showed up.

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Yes, sir.

So he said, "Would you mind wiring the microphones", with which I have had vast experience. I said "I need some parts and tools," and whatsoever, and I was given \$20 to buy eight XLR 311-2 plugs, soldering irons, solder, whatsoever, and I wired the microphones as many as I could, with the lights out during the rehearsal, and to try to get his club ready for that night.

And I was there until approximately -- from about 4:30 to 8:00 O'clock, when I went hometo change.

- Where was Stan about that time?
- He was running around the club doing last minute details, this here and this there, and teaching the guys which buttons on the soda thing, so they wouldn't give quinine water as gingerale.
 - Q Go on, you say you left at a certain point?
- I left. I went home, changed, I came back.

The club opened. It was mainly a -- a gay club. I really couldn't handle it, so I left after about a half hour, forty minutes, just go home and watch a late movie.

Q Okay. Now, do you know of this fellow named George?

- A I know a George.
 - Q Have you met him on some occasions, right?

1 2 Incidentally, what name did you know him as, if you remember; any other name? 3 4 George. I never knew the guy's last name. 5 Q Do you have any recollection when it was you had -- I will withdraw that. 6 Can you tell us when you had seen George, if at all, 7 during April, May of '73? 9 I believe the last time I saw him to my recollection was some time in early April, or in April some time around that. He came to a session that I was producing with the suggestion that he play conga drums, which I let go in this ear and out that. 13 In other words, you didn't listen to his suggestion? 14 Q No, I wasn't interested; a non-union member. 15 Q Now, you saw Stan at the club on June 13. When 16 did you next see him? I believe it was the 18th. I might have seen him --18 19 no, I didn't -- it was the 18th of June. That's the Monday when everything happened --20 right? 21 I guess you could say that. 22 Did you speak to him, if you recall, between 23 24 June 13th and 18th? No. I spoke to him on the phone after his club had 25

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2	opened and told him my personal feelings.
3	Q About the club?
4	A About the club.
5	Q But you didn't speak to him face-to-face during
6	that period?
7	A No. He was he was very enmeshed in the opening and
8	in getting the show on the road.
9	Q You had seen Jock Davis during the week of June
10	10th, according to David's testimony; is that right?
11	A I believe it was a Friday the fifteenth.
12	Q Fifteenth. When was the last time you saw
13	saw him before that time?
14	A About a year ago. He dis he has a habit of calling
15	up saying, "Hi, I am in New York, can I come over?"
16	Q Jock Davis described himself as a close friend
17	of yours.
18	MR. FRIED: Your Honor, I object to the
19	characterization by Jock Davis.
0	Q I will withdraw it.
1	What was your relationship with Jock Davis?
2	A Jock and I struggled in a rock-and-roll band for I guess
3	three years, potatoes for lunch, breakfast and dinner, and
4	eventually I left the group. Jock was one of the reasons.
5	Q Why do you say that?

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MR. FRIED: Again, I object, your Honor.
No relevance to the issues.

THE COURT: I will allow the relationship between the Government witness and this witness to be testified to.

THE WITNESS: He was -- he was a -- the kind of person, who after three years of listening to him and his great expectations, and heavy ideals, but never getting off his -- off his bed to -- to work for any of these things, it was like I couldn't -- I couldn't really listen to him any more. So I just --

THE COURT: Did you ever have an argument with him?

THE WITNESS: No. It was -- he had -he wanted to be a rick-and-roll superstar without
ever getting on a stage. He wanted a house here,
twenty-room house with six cars and big swimming
pool. He never wanted to work for it.

And we were in the process -- I had gotten

a -- quite a good record deal for the band myself,

and I -- I just tried to explain to Jock that you

don't get those things unless you, par on my

language, work like hell for them.

I believe I did. 21

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Did he stay over at your house?

Stayed over at the house.

And the next day? Q

A Went to Connectticut. And I went out to Long Island.

Q Was there any conversation at all with Jock before he left as to when you might get together again?

A He said "I may be coming in Monday, and I'll give you a call."

And coming from Jock, that's like, you know, I'll see you. You know, I could see him in a year. You know, like, "Call you Monday", and if he called, he called. If he didn't, he didn't. Most chances were he wouldn't call, he would be involved in something else somewhere. He was very bad with appointments, and calling.

(Continued on next page.)

2	Q When was your next contact with Jock?
3	A I believe it was Monday, June 18th, he called from
4	New Haven and said "I'm taking the train in. The train
5	gets in" he stated a time, I think he said around 2:30.
6	Q What time approximately did you receive this
7	call?
8	A I believe it was around noon because I was on my way
9	out of the door, I said, "Fine, great, I have got to go down
10	and sign a lease for a new apartment"
11	Q Give us the conversation on the telephone call
12	Jock said what and what you said?
13	A Jock said, "I'll be around 2:30."
14	I said, "Fine, I don't know if I'll be here. Wait
15	downstairs in the lobby because I have to sign a lease."
16	The lease signing was at three o'clock, if the train
17	gets in 2:30 I didn't think I'd be home.
18	I went out of my way, I signed the lease about 2:30
19	sol could get home in time to meet Jock because it was not
20	really nice to keep somebody waiting in the lobby.
21	Q He did show up at roughly what time?
22	A I would say about 3:30, quarter to four.
23	Q What did you two do at that point?
24	A Sat around, chewed the fat.

Ω This was at your apartment?

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In my partment.

Q Did you make any phone calls during that period of time?

Yes, I called Wanda.

Let's have it, this was a conversation about doing something, was it not?

Yes, Jock wanted --

Without going into all the other material, whatever you were talking about there, tell us about that coversation, how it came up and what was said and what happened?

Well, firstly Jock said, "Gee, I want some coke," which is what he always says.

I let it go in one ear and out the other, just like his talking about a half a million dollar recording studio, I wasn't really interested in what he said.

Then he said he wanted to have dinner and I said, "What kind of food would you like to eat," as I would say to anybody who wanted to go to dinner.

He said, "Well, you know, Jap food would be fine" with him.

> I said, "I can't go because I don't have any cash." He said, "Well, I have twenty dollars."

And I said, "I don't know if that will be enough."

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I then called Wanda and asked her if she could borrow

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eat dinner.

I don't know if that is -
Q Was there any discussion where you were going

five dollars from her boss so we could have enough money to

A At Ito's on 46th and 5th.

Q Who mentioned that restaurant?

A I did, fresh fish.

to be eating?

Q And there came a point, I take it, that you left the hotel -- no -- that you left your house to go with Jock, and what did you do?

A Well, we had been hanging around the house for a while because Ito's does not open up until 5:30 and if you get there at 5:29 they know you are at the door, so we hung around my house.

We then took the IRT subway downtown, got off at 42nd Street, Times Square, then proceeded to go to pick up my girlfriend.

Where were you going to pick her up, in which direction were you going?

A We were going uptown and east.

Q To where?

A To 565 Fifth Avenue.

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Q	Where	is	that	in	relation	to	Ito's	restaurant?

A Across the street, it is about a quarter of a block west.

Q On?

A 565.

Q On what street is it?

A On 46th Street, right off Fifth.

Q Go on, you are on the way, walking there with him, tell us what was said, what was done?

We were just talking, you know, nothing relevant, nothing pertinent, and we came upon the Hotel Diplomat where Stan's club is, and at that point, you know, I said, "Well, Jock, you want to see a friend of mine's club, because to hear about a half a million dollar recording studio from somebody who really doesn't know what it takes to put it together and the extent of work, knowledge, intelligence, and coming from him I thought I'd show Jock the club, he will see that people do these things, "But they have to be a little more together than you."

Q Go on, you were telling us what you were saying to Jock and what you said?

A Then we arrived at the Diplomat and I was very anxious to show him the club because I was -- well, not proud of it, but I was, you know, I was proud of Stan and to be

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involved in it, and the doors were locked, much to my disappointment. I couldn't show him the club, couldn't make my point.

At that point I said, "Let's, you know, let's go eat."

Q Then what happened.

A We walked upstairs and I looked in the coffee shop, Stan was sitting there having a BLT down.

We went over and I said, "Hi, Stan." I introduced
Stan to Jock and Stan says, you know, "Walt until I finish
eating, I want to talk to you."

Q He finished eating and you talked to him; right?

Right.

Q Was that with Jock present or without him being present?

Stan took me aside in the hotel lobby.

Q What did he say to you?

He said --

MR. FRIED: Your Honor, I object to this as not constituting an admission and therefore being a self-serving statement.

THE COURT: Objection sustained.

What happened after that?

Next, after that, tell us what happened, what

happened -- how long did that -- how long did that conversation take?

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A Five minutes -- three to five minutes.

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Q What happened next?

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Well, I said, "Why don't you talk to Jock about it,"

about the conversation we had just had, and he said, "Okay."

Oh, first he said, "Why don't you explain it to Jock," which

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I tried, it was really -- it was such --

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Q Do you recall anything what you started to say

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in Jock's presence, to Jock?

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Yes sir, I started to explain the story that Stan

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Preeman had told me, you know, in personal discussion.

Q Do you remember what you were saying to Jock

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at that point when you were trying to explain it to him?

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A Something about some suitcases being picked up, at that point suitcases being picked up, and I said, "Stan, why don't

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you explain it to him?"

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Okay, then?

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Was there a conversation where Stan was talking to Jock in your presence?

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A Yes, I was about five or six feet away but I could hear.

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Q What do you recall Mr. Freeman saying to Jock at that time or Jock saying to Mr. Freeman?

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2	A Basically what he had told me specifically.
3	Q Well, yes, but when I say "Specifically," in
4	substance, the words that well, they may not be exactly
5	what he was saying to him what was it about?
6	A It was in substance, it was that some girl's boy-
7	friend had been arrested, was in trouble, she was hysterical,
8	she needed the suitcases, all her clothes were in them, and
9	she was very upset and she, you know, she needed her clothes.
10	So that basically is the substance of the conversation
11	and Stan wanted somebody to pick them up, he couldn't pick
12	them up, he was tied up in the club. He said he had some-
13	body ready, it didn't really matter whether Jock wanted to
14	do it or not.
15	Jock volunteered to pick up the suitcases at that point
16	2 Now, before he colunteered you say, was there
17	any other discussion?
18	A No, none whatsoever.
19	Q Think about the conversation very carefully?
20	A Nothing whatsoever.
21	Q Was there any discussion
22	MR. FRIED: I object, your Honor.
23	THE COURT: Objection sustained.
WINDS TO SERVICE	

I'm trying to refresh your recollection.

MR. BELDOCK: Let me see if I can approach

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it from a general point of view.

Q Was there any discussion between Jock and Stan in your presence regarding what might be in the bags?

Yes, there was.

(Continued on next page.)

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-	Q	Tell	us	about	that	discussion.

A He said, "Oh, there might be approximately three to five grams of cocaine in the bag," which is basically what Jock was interested in.

Q What did Jock say about that, if you recall?

A Oh, he was very excited, he wanted some of that cocaine.

Q Was there any other discussion either in lobby or outside about anything else regarding bags or a hotel?

A I believe Stan told Jock the room number quite a few times, and that's about it.

Q Now, let me see if I can help you think this conversation over again and see if you remember anything else.

Was there any discussion between Jock and Stan as to --

MR. FRIED: I object, your Honor. The witness has already answered the question, he is now being led.

THE COURT: Is this in the presence of Mr. Davis?

MR. BELDOCK: Yes, I believe it was.

THE COURT: Overruled.

BY MR. BELDOCK :

Q Maybe we will have to go over all the conversation again, okay?

Let's see if you remember anything else that Stan said

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THE COURT: We just want to know what was

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said.

THE WITNESS: Basically, Stan said, your know, like, "If you go over there, you know, you can pick up the bags," and that -- I mean, that basically is all that was said.

BY MR. BELDOCK:

- Q At the end of the conversation, that was agreed?
 Right.
- Q Was there anything that Mr. Freeman said in your presence to Jock Davis about, "Well, what should happen in case he was arrested?"
- A Yes.

Mr. Freeman said, "If any trouble arises, or conflicts," he said -- he said to Jock, "some man approached you on the street and offered you a \$100 to pick up two suitcases and bring them back to the Hotel Diplomat," basically, that was it.

Q Now, you were, of course, present in court when Jock Davis testified concerning this conversation. Did you, during any of the conversation that you testified about -- Withdrawn.

On June 18, during the conversation, did you ever hear Stan Freeman say anything to the effect that the girl involved with the bags was a cocaine smuggler?

A None whatsoever, if I had I would have grabbed Jock by the collar and dragged him away from the hotel, probably as

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fast as I could. I had two weeks prior to that, I had just gotten out of court, been sentenced, and was really looking to stay away from trouble.

Did you hear Mr. Freeman on the same occasion say anything about getting the girl out of town that night, or words to that effect?

None whatsoever.

Did you hear Mr. Freeman on that occasion say anything about the fact that the girl was a photographer, and somehow she managed to smuggle cocaine in her photography equipment?

No, just -- just that she was hysterical, that she didn't have any clothes, which for a woman is grounds for hysteria.

Incidentally, Jock Davis, who testified here a few days ago, does he look like the Jock Davis whom you saw on June 19th?

Not at all.

Describe him.

MR. FRIED: I object to this as being irrelevant.

MR. BELDOCK: This has something to do with credibility, Judge, or demeanor, at least.

THE COURT: Go ahead.

THE WITNESS: Am I allowed to answer that?

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MR. BELDOCK: Apparently.

- He had a mustache which he had been trying to grow for 3 three years until the last time I saw him, which was very 4 pitiful --5
 - Let's just give the description.
 - What did he look like, hair, clothes?
 - A He looked like he crawled out from under a rock.

THE COURT: What was that?

Mr. Karr, will you please read that? (The Reporter repeated the question.)

- I'm just asking you to describe him physically, I asked you to describe him.
- Long hair, very thin long hair, scraggly, dungarees, used boots, denim jacket -- I don't know.
- Q Am I right in saying, after the conversation at the Diplomat, you and Jock walked over towards the Hotel Paramount; is that right?
- Yes, sir.
- Q And had there been any discussion with Freeman present that you can recollect concerning your doing anything, or just going over and accompanying Jock?
- I went over, accompanying Jock, and in my mind was the 23 possibility that the bags might be watched, I was concerned for Jock in terms of he gets into trouble quite a bit, and I didn't 25

A I then walked to 45th Street to look for a pay phone to call my girl friend and tell her we would be late picking her up. I had to buy a pack of cigarettes to get change. I walked back to 46th Street, where there was an operating phone booth, and I called at that point. After I was through with the conversation, I then started walking towards the hotel because I hadn't seen, you know -- I didn't know how long it takes to pick up two bags, and I hadn't seen Jock, so I started walking over there, and Jock came out of the hotel, and then I proceeded back across the street.

Q Did you see anything happen in regard to Jock?

A As he came out, around the corner, 46th Street and

Broadway, I saw a light green car turn around the corner and

move as he walked, you know, in New York City -- Well, like ne

was walking slowly, and the car was following him, and he couldn't -- well, at that point, in my mind I said, "Well, maybe Jock is being followed, maybe he is not, maybe it is my paranoia, because of my previous incident," and --

Q What did you do?

A I then went back to the Diplomat.

Did you see Mr. Freeman then?

A I did.

Q What did you say to him, and what did he say to you?

A I said, "Stan, you know, I don't," -- "I can't say it for a fact, but it looks to me like Jock was followed," or somebody -- I explained the situation of the car going around the corner, and pulling up constantly, waiting for him to catch up with the car.

Q What did you and Stan do, if anything, at that time?

A We then walked to 43rd Street and Broadway to look for Jock, didn't see him. At that point, I went back to the Diplomat for about three seconds, then went and picked up Wanda at work, and went home.

Q And leaving Mr. Freeman at the Diplomat: Right?
Right.

MR. BELDOCK: I have no further questions.

Thank you.

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THE COURT: Mr. Fried.

MR. FRIED: Yes, your Honor.

(continued on next page.)

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CROSS-EXAMINATION

BY MR. FRIED:

Q Mr. Ornitz, you testified that Jock Davis and you at one time fairly good friends; is that correct?

A Yes.

Q And you also had testified concerning your current low opinion of his business judgment?

A Not his business judgment, his practical sense of reality, he had none. I mean there are dreams, I'm sure every man has dreams as to what he wants to do, his goals, and in my opinion Jock was living in a pretty much fantasy world. I felt compassion for him because I had lived with him for several years and we went through many hardships together, and I was in the music business and anything I could do for Jock I would have liked to have done.

Now, Mr. Ornitz, as you left your apartment and you went downtown with Mr. Freeman -- with Mr. Davis, can you repeat for us approximately what time it was that you left your apartment?

- A I would say it was around ten to five.
- And you had to be at Ito's restaurant at what time, or your girlfriend's, at what time?
- A Five thirty.
 - Q That was an important appointment?

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2	A An important appointment?
3	Q Yes?
4	A No, it was important, it was like I don't know
5	what you mean by "important"?
6	Q Didn't you just testify that you were waiting
7	to leave so that you could be at Ito's at about the time it
8	opened so that you wouldn't have to wait for it to open?
9	A Right.
10	Q When you came out of the subway, were you en
11	route to Wanda Fidi's place of business?
12	A Yes, I was.
13	Q As you passed the Diplomate Hotel
14	A Right
15	Q (Continuing) You said, "Let's go and see"
16	you said a bar or a new bar, a new club?
17	A "Let's see the club thata friend, a business partner
18	has been involved in and which has been working for several
19	months."
20	Q Was there any discussion of cocaine prior to
21	entering Mr. Freeman's nightclub?
22	A Just with Jock
23	Q What was said?
24	A Where can he get a blow.
25	Q What did you say?

A I said, I might have said, "If Stan has one I'm sure he will give me one," which I would have then turned over to Jock because I was no longer indulging.

One of the reasons for going to Freeman's club was to get a blow of cocaine?

A No, it wasn't.

Q But you said that you could have gotten a blow of cocaine?

A One of the reasons for Jock coming to the club with me was because he might get a blow of cocaine.

Q Did he know he would get a blow of cocaine from Freeman?

A No.

Q To your knowledge, did he ever talk to Freeman?

A No.

A Q To your knowledge, had he ever heard of Freeman insofar as any cocaine is concerned?

A I told him, I told him I did business with Stan.

What did you tell him about cocaine that led him to believe that he could get a blow of cocaine if he went to Mr. Freeman's nightclub? You just said Mr. Davis wanted a blow of cocaine, that he wanted cocaine and he went to Freeman's expecting cocaine, that he might get cocaine? How did he learn this?

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2	A Well, I told him that Stan sometimes had cocaine.
3	Q And you told him this prior to your going t
4	the nightclub; is that correct?
5	A I believe so.
6	Q Either on the subway or coming out of the
7	subway?
8	A Sometime during that day.
9	Q You knew three days earlier, didn't you, on
10	Friday, that Jock Davis might be coming to New York on
11	Monday?
12	A No, that is
13	Q Didn't you testify that Jock Davis told you
14	he was coming back on Monday?
15	A Yes, but that is like
16	Q He had told you that?
17	A That is not worth anything coming out of JockDavis'
18	mouth.
19	Q I see.
20	Now, within the Hotel Diplomat were you able
21	to overhear the entire conversation between Davis and Stan
22	Freeman?
23	A I'm sure I was.
24	Q Do you recall whether or not they walked awa
25	from your hearing at any time?

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A I can't recall.

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As far as you can recall, the three of you were always talking together at the same time?

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A Always, well, as Stan and I finished our conversation,

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he was explaining the story to Jock, I was just kind of wandering around, I'd heard the story already and I'm sure

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that anything new which was added in the conversation from

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Stan to Jock, I have very sharp ears I would have picked it

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up.

correct?

You would have picked it up.

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Now, at this time you testified Mr. Freeman

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told JockDavis that the bags might be watched; is that

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A Yes, he did.

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Q Did he tell you why they might be watched?

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A No, he didn't.

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(Continued on next page.)

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PM	Ornitz - cross/fried 833
2	Q Did you ask him why they might be watched?
3	A No, I didn't.
4	Q Did Mr. Davis ask him why they might be watched
5	A No, he didn't.
6	Q Did you ever tell anybody that they might be
7	watched because the girl had skipped out without paying the
8	hotel bill?
9	A Excuse me?
10	Q Let me restate that.
11	Have you ever told anybody that Mr. Freeman told you
12	that the bags were being watched because the girl skipped out
13	without paying the hotel bill?
14	A No, he never told me that. That was my assumption.
15	Q What did you base that assumption on?
16	A You skip out on a hotel bill, somebody is going to get
17	angry.
18	Q You said you were very concerned about Jock Davi
19	A Yes.
20	Q And that because of that, you agreed to walk
21	along with him?
22	A Right.
23	Q What were you How did you think you could have
24	helped Jock Davis by walking along behind him?
25	A Moral support.
	Q Moral support. Were you close enough to him

that he was aware you were present?

A It was in his mind that I was in Manhattan, which is about moral support enough for Jock Davis.

I see. You got part of the way, you stopped to make a phone call, or tried to make a phone call. Where was that phone located?

A 46th Street, Broadway, or Seventh Avenue. I don't know the intersecting --

Q Do you remember from the phone booth whether you can see the hotel -- Can you see the Diplomat from that phone booth?

Av No.

Q Could you see the Paramount?

A No.

Q Could you see the person that came out onto the street from the Paramount? Could you see him coming out onto the street?

A Yes.

Q Did you at any time walk up within a period of 50 or 70 yards to the Hotel Paramount?

As I stated, when I got -- when I terminated my phone call, I had -- I had not seen Jock. I started walking in that direction. I may have got -- I don't know accurate yardage, but I was quite a distance from the hotel.

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Q If Jock had been arrested because somebody was watching the phone -- the bags, what could you have done? You weren't with him. How did you plan to help him? What kind of support besides moral support could you have given him?

MR. BELDOCK: I object.

THE COURT: Objection sustained. It is argumentative.

Q When you returned, Mr. Ornitz, to the Hotel Diplomat, did you tell Mr. Ornitz -- Mr. Freeman, that you detected some sort of heat?

- A No, because I wasn't -- I wasn't sure.
 - Q Did you tell Mr. Freeman that --
- A I told him my assumptions.
 - Q Your assumption?
- A I told him my gut reaction.
 - Q Your gut reaction. What did you base this on?
- A On my gut.
- Q And what -- What did you see that would cause your gut to create such a reaction?
- A It was just like a TV show.
 - Q Tell us about it.
- A Well, there is Mr. Davis walking along at a walker's pace, and a car on the street, kind of gliding next to him. It seemed like something they do in movies, and --

	Q		Do	you	recal	l ever	telli	ng ai	nybody t	hat yo	ou had
gone	back	to	Free	man '	s off	ice an	d told	Mr.	Freeman	that	there
was	heat	on .	Jock	Davi	s, and	d then	you 1	eft?			

- A I don't believe I ever used the word "heat."
- Q Do you recall ever telling anybody words to that effect?
- - Q How were you going to help him?

 MR. BELDOCK: Objection.

THE COURT: Overruled. I will allow it.

- You know, if he was in trouble, I would see if I could, you know, get in touch with his parents, get in touch with a lawyer, try and help Jock. He's from out of state. He knows no one in, I think, New York City but me.
 - Q You were very worried about him?
- A Not at that point.
 - Q You later became worried about him?
- A I was -- I became worried when four Agents came to my house and told me that they had arrested Mr. John Spencer Davis.
 - Q When did they come to your house?
- A Approximately 6:30, 7:00 o'clock. I don't recall the exact time.

1	Ornitz - cross/Fried 837
2	Q Do you remember the date?
3	A That Monday.
4	Q The same day?
5	A The same day.
6	Q This man George who you said was known to you
7	only as George, had you ever seen him before April, 1973?
8	A Yes, I had.
9	Q When did you see him?
10	A Random times. You know, maybe three or four, five times
11	at Stan's house.
12	Q Did you ever buy cocaine from him?
13	A Not directly.
14	Q Did you ever tell anybody whether you ever bought
15	cocaine from him?
16	A Not directly.
17	Q When you say, "Not directly," what do you mean?
18	A Well
19	MR. BELDOCK: I object to this testimony.
20	THE COURT: Overruled. I will allow it.
21	A Is he waiting for an answer? Oh. Could you state the
22	question again?
3	THE COURT: What do you mean by "Not directly"?
4	How did you buy it from him?
5	THE WITNESS: Well, it was If I needed

'		Ornitz - Cross/Fried 838
2		some cocaine or whatever, and it was around, Stan
3		and I had both purchased cocaine from George. I
4		guess it was through George. You know, sometimes
5		George couldn't be there. Sometimes I I had no
6		idea where it came from.
7		THE COURT: Where was it? Was it in a
8		hotel room? Was it on the street?
9		THE WITNESS: No. It was in Mr. Freeman's
10		apartment.
11		THE COURT: Where?
12		THE WITNESS: At Perry Street.
13	BY MR.	FRIED:
14		Q How much cocaine did you buy from him?
15	A	From George?
16		Q From George.
17	A	Well, I never bought anything directly from George.
18	George	wouldn't talk to me.
19		Q George I didn't hear that.
20	A	George wouldn't talk to me.
21		Q Who would George talk to?
22	A	George would talk to Stan.
23		MR. BELDOCK: I object.
24		THE COURT: Overruled.
25		Q This is Stanton Freeman he would talk to?

THE COURT: Who would you give the money to for the cocaine?

THE WITNESS: I would, you know, give it to Stan -- Yes, tol Stan, or I wouldn't give him any money, I would give it to him at a later date.

THE COURT: Will you please show the witness the photographs and see if he can identify the one he says, if it's --

Q Government's Exhibit 34, and I ask you if you can recognize --

THE COURT: -- George.

Yes, this is George, these three.

THE COURT: You say George is the gentleman that --

THE WITNESS: With JM over here.

THE COURT: The letters JM are at?

THE WITNESS: Right. I have never

seen any of these other people before.

THE COURT: Is he in three photographs

then?

Yes.

THE WITNESS: Yes, he is.

THE COURT: Top left, he's in the middle?

THE WITNESS: Yes.

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,	Olnicz - Closs/Filed 841
2	A It was not It wasn't a question of finance then. It
3	was
4	Q I asked you specifically how much you paid in
5	dollars and cents, as best as you can recall?
6	A For the
7	Q For the spoons of cocaine and for what you
8	described as a quarter ounce of cocaine?
9	A Spoon, \$25; quarter ounce, about 250 or 300.
10	THE COURT: You say there was a time you
11	did not pay cash? You owed the money?
12	THE WITNESS: Well, it was Basically,
13	what I've learned in this trial was an accommoda-
14	tion sale.
15	Q Object to what you learned in this trial, Mr.
16	Ornitz. Would you tell us exactly what it was you did, and
17	what
18	THE COURT: Mr. Fried, if you object,
19	aren't you interested in a ruling?
20	MR. FRIED: I'm sorry.
21	THE COURT: Objection overruled. I will
22	allow it to stand.
23	Q Would you describe what exactly what you mean
24	when you say "an accommodation sale"?
25	A If Stan had some coke, and I wanted a part of it, I woul

to you that you hadn't heard earlier from Mr. Freeman?

A Right.

Q I see. So there is no point in which you weren't privy to the conversation, or part, or listening to the conversation between --

I wasn't listening because I heard it before, but I'm sure if anything new came up in the conversation, my ears would have caught it. Anything as lethal, "was cocaine smuggler," or "Get the girl out of town because she's hot." I could be probably be three miles away, I would have heard it and taken a powder.

THE COURT: When was the last time you saw George before June 13?

THE WITNESS: It was early April. Some time in April.

THE COURT: Is that when you wanted to play drums? Or conga drums?

THE WITNESS: Conga drums.

THE COURT: Conga drums, yes.

Q Mr. Ornitz, when was the first time that you recalled meeting George?

A I really couldn't say.

THE COURT: Have you seen or heard from George since?

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THE WITNESS: No, I haven't. I was not

Ornitz - cross/Fried 844

friendly with George. He never spoke to me, except --

THE COURT: I thought he might be looking for jobs.

THE WITNESS: Non-union. It's against rules.

(continued on next page.)

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Ornitz - cross

Mr. Ornitz, do you have, from your own -do you have any knowledge of your own of any other sales
that Mr. Freeman transacted beyond this -- these that you've
testified to?

MR. BELDOCK: I object to the word "sales".

THE COURT: Overruled.

Wait. What was the question again? (Record read.)

THE COURT: Sustained as to form. That calls for a conclusion.

Did you ever see Mr. Freeman, in addition to the times you've testified to, give anyone any cocaine or accept money when cocaine was passed?

THE WITNESS: As I told special agent
Michael Levine, there was one transaction, as
I stated, an ounce -- was again Jock Davis had
a friend and his friend wanted some coke. Stan
and myself sold this friend of Jock's an ounce
of coke and to no profit, for no profit.

THE COURT: For how much?

THE WITNESS: For twelve hundred dollars, which is, I believe, -- which is what it costs.

Ornitz - cross

THE COURT: Whom did you and Mr. Freeman
pay the twelve hundred dollars to, for the coke?
THE WITNESS: I don't know. You'll

have to ask Mr. Freeman.

THE COURT: You know it was twelve hundred dollars, though?

THE WITNESS: Yes.

THE COURT: Did you see that transaction, when the coke was bought for twelve hundred?

THE WITNESS: Yes, I did.

THE COURT: Who transferred the coke, at twelve hundred dollars an ounce?

THE WITNESS We gave the gentleman -his name was Lee Brown -- an ounce of coke and
he gave -- he gave us twelve hundred dollars,
which I then gave to Stan.

THE COURT: You say is was at no profit?
THE WITNESS: Right.

THE COURT: You are saying that you paid twelve hundred? I'm asking whether you saw that transaction?

THE WITNESS: No, I did not.

THE COURT: Were you paid twelve hundred?
THE WITNESS: No, I did not.

Ornitz - cross

that there -- that those had been accomodation sales?

A Yes sir.

your Honor.

Q Would you explain what you mean by an "accomodation sale"?

A If you want a six-packand I want three cans of beer and you want three cans of beer, we'll both pitch in and we'll have three cans of beer. That's my knowledge of an accommodation sale.

THE COURT: You think it's one where
there is no profit to the seller; is that
right? Where he acts for a group?
THE WITNESS: I don't understand that,

THE COURT: I'm trying to understand your testimony. You say it's an accomodation

sale. You are talking about a six-pack?

THE WITNESS: No. It's like if -- if

Stan had said to me, I have two grams of cocaine

and I would say I'd like one of them, right,

which he had already purchased or whatever, I

-- however he obtained it, I won't -- I don't

know, I didn't inquire -- I could get half of

that, or, you know, whatever I wanted of that,

and it would be fifty-fifty.

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Ornitz - cross

THE COURT: Would it be an accomoda-

THE WITNESS: I would reimburse his cost.

THE COURT: That is what I am asking.

In other words, you get it at his cost?

THE WITNESS: Right.

THE COURT: So I ask you, an accomodation sale, you described an accomodation sale as one to where there is no profit to the one who distributes it?

THE WITNESS: Right.

BY MR. FRIED:

Mr. Ornitz, how did you learn that at this trial? Could you tell us particularly which witness testified to this explanation you had just given?

A No witness. I learned of it through sitting at that table over there, the defense table, just in terms of what an accommodation sale was.

I had had a discussion with Mr. Levine in your office and I tried to explain this to him. He said did Mr. Freeman sell you coke. I said well, he had some and he sold it for -- sold it to me for, you know, whatever he paid for it, and he said did he sell you coke. I said if that's the question,

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Ornitz - cross

I'd have to answer yes.

So I later learned that's what was an accommodation sale. If I had told Mr. Levine I stand accomodated -- whatever the word is. It was an accomodation sale. Then I might have pacified him. But he seemed to be looking for something else.

Q Did you use the word "accomodation sale" at any time in your conversation with Mr. Levine?

A No. I'd never heard the word in my life.

Q So when you say you learned at this trial, you learned it when you were a defendant at this trial?

A That's right. And in my discussion with Mr. Levine I believe I stated tohim, in layman's words, that whatever coke I bought from Freeman had been done, in layman's terms --I never said an accomodation sale, but had been done on that kind of a basis.

He didn't want to hear about it. He just wanted to know whether Stan sold me coke, period.

> THE COURT: During the few months preceeding -- six months preceeding June 13, did you ever get any coke, whether an accomodation or purchase or any other way, from anyone else other than Mr. Freeman?

> > THE WITNESS: Yes, I'm sure I did.

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THE COURT: Prior to June 13, did you have occasion to ask Mr. Freeman for coke, at a time when he didn't have any?

Ornitz - cross

THE WILMESS: One more time?

THE COURT: Repeat that, Mr. Rudolph.

(Record read.)

I don't know. I can't remember.

THE COURT: All right.

MR. PRIND: I have no further questions.

MR. BELDOCK: A few on redirect, your

lionor.

THE COURT: Mr. Beldock.

REDIRECT EXAMINATION

BY Mr. BELDOCK

Q During the score at the hotel Diplomat, when Jock Davis and Stan Preeran were talking, can you tell us approximately how far away from them you were, at the furthest?

Six, seven feet.

Let me see if I can pick up the judge's last question and see if there is anything else you have to say about it.

Were there times during your relationship with

8	1	Ornitz - redirect
	2	Mr. Breeman when he did not have cocaine?
	3	A Quite a few times.
	4	Q Was there a time when he had more cocaine?
	5	A Excuse re?
	6	O Was there a time when it seemed that he had
	7	more cocaine than at other times?
	8	Let me clarify that.
	9	Let's take the last six months the judge is
	10	talking about.
	11	THE COURT: I fixed the period six
	12	months prior to June 13. That is all I am
	13	interested in.
	14	MR. BELDOCK: Yes.
	15	Were there times during that period when you
	16	and Stan were together and you weren't using coke?
	17	Λ Surely.
	18	Q How frequently were you together with Mr.
	19	Freeman?
	20	A Quite frequently.
	21	You were business associates and social friends
	22	right?
	23	A We saw each other I imagine anywhere from three to
	24	five days a week.
	25	Q Here there times during your relationship when

9 1	Ornitz - redirect
2	you had cocaine and you shared it with Mr. Freeman?
3	Λ Yes sir.
4	Q He paid for your cost?
5	A Yes sir.
6	Q Just one other thing I want to clarify.
7	During Mr.Levine's testimony, you'll recall
8	he was talking about something he said you said to him
9	about a sale of cocaine that you hadwitnessed. Do you re-
10	member Mr. Levine saying that? What do you recall Mr.
11	Levine saying?
12	A I recall Mr. Levine saying Stan sold me an ounce of
13	coke for approximately twelve hundred and thirteen hundred
14	dollars, period.
15	Q Did you say any such thing to Mr. Levine during
16	your conversation with him?
17	A I never did.
18	Q What did you say to him?
19	A I told
20	O What were you talking about?
21	A I was talking about the friend of John Spencer Davis.
22	Q The same incident that you've told us about
23	now?
24	A That's correct.
25	Ω The one incident where there was an ounce and

THE COURT: We have already done that,
but I'm glad that you have said it again. I
thought you heard me say, "Please note Mr.
Ornitz's counsel is present, Mr. Fatrick Wall."

MR. WALL: No, I didn't.

THE COURT: I did say that.

MR. WALL: Thank you, your Honor.

THE COURT: Thank you. Mr. Beldock?

MR. HLDOCK: Yes. I'm having a witness come in.

THE COURT: We will take a short recess at this point.

MR. BELDOCK: Thank you.

(Recess taken.)

(Continued on next page.)

Robbins-Direct F.:cr 1 4PM-all JOY ROBBINS, having been called as a witness EK flws. 2 was duly sworn by the Clerk of the Court, took the 3 stand and testified as follows: 4 **XXXXXXXX** 5 DIRECT EXAMINATION BY MR. BELDOCK: 6 Q How old are you? 7 A Twenty-three. 8 O Where do you live? 9 A. Atlanta, Georgia. 10 Q You know Stanton Freeman, of course. 11 Λ Yes. 12 O Approximately when did you meet him? 13 A July -- around the fourth of July '72. 14 Q And did a relationship develop between yourself 15 and Mr. Freeman? 16 Λ Yes. 17 O Did there come a time when you and he started 18 to share the same house together, live together in the same 19 household? 20 Λ Yes. 21 ? Approximately when was that? 22 Right after I met him. A 23 Q And are you still continuing that relationship? 24

A

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Yes.

Robbins-Direct

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long	time	after	1	had	met	George.	

Q Was there any relationship as between you and Stan on one hand and George and Theresa on the other? I mean what if anything, did you do anything together?

A Yes.

Q Tell us what.

A They would come see us sometimes. And we went out to a concert with them. And we went out to eat with them one time.

THE COURT: Sorry, you will have to speak a little louder.

THE WITNESS: We went out to eat with them one time and to a concert with them one time, and they came to see us.

- Q Were you ever at any house where George and Theresa were?
- A Yes. Yes, we went to dinner at their --
 - Q Dinner at their place?
- A Yes.

THE COURT: Where was that?

THE WITNESS: I don't know the address, but it was in --

THE COURT: It was at the Hotel Albert?

THE WITNESS: No, no, it was an apartment.

1		Robbins-Direct
2		Q When was that?
3	A	That was after the Deodato concert.
4		Q When you say after
5	A	I mean that night.
6		Q When was that approximately?
7	A	In the spring?
8		Q Between the occasion when you saw George and
9	Theres	a at the Deodato concert and at their house for dinner
10	afterw	ards and June of '73 did you see either of them, and
11	if so,	which one and where?
12	A	I saw George.
13		Q How about Theresa?
14	A	Pardon?
15		Q First you saw George. Talking about Theresa,
16	did yo	u see her?
17	A	No, because she was leaving for South America.
18		Q When did you know that?
19	λ	That night.
20		Q The night of the concert?
21	A	Yes.
22		Q Did she have a baby at that time?
23	A	Yes.
24		O Did she
25	Λ	She was going down to see her parents with the baby.

Robbins-Direct

- Now, approximately when did you see George after that?
- A He came by to see us a couple times. He was -- he was building a loft-- they were moving into a -- into a new apartment, into a loft, and he was working on the loft while Theresa was gone.
- Q Let's go to June of 1973. Prior to that month can you tell us what Stan Freeman was working on?

 A Yes, he was putting together a night club, at the
- Diplomat Hotel.
- O For how long a period had he been working on the fourth?
- Well, there sort of -- the guy he was working on it with, they started working it out in their minds around the house and he was out at the hotel working for, I guess three weeks or four weeks.
 - Q Prior to the spring --
- A Yes.
 - Q -- of June of '73?
- A Yes.
- Q Now, were you in New York City throughout June of '73?
- A No.
 - Q Approximately when did you first leave New

Robbins-Direct

2	York City in June '73?
3	A June well, I went I left for a week and then I
4	came back and
5	Q That first time you left where did you go?
6	A I went to Atlanta.
7	Q Is that where your home is from?
8	A Yes.
9	Q That's where you now reside?
10	A Yes.
11	Q When did you come back?
12	A I came back a week later. I went home to take my
13	kid, to get him out of the city.
14	Q When had you withcrawn.
15	Can you tell us approximately when you came
16	back, or if you know the date what was the date?
17	n I
18	O or if you can relate it to any event.
19	A I guess it must have been around the seventh or eighth
20	I came back on a Friday, Friday night.
21	MR. FRIED: I will stipulate it was
22	June 8th.
23	Q Friday was June 8th.
24	Λ Yes.
25	Ω All right. You came into the airport and were

Robbins-Direct

2	met by whom?
3	A Stan.
4	Q And then ultimately you came back to Perry
5	Street thatnight right?
6	A We stopped by and had some soup and then we went home.
7	THE COURT: I am having difficulty hearing
8	you.
9	THE WITNESS: Okay, I will talk louder.
10	THE COURT: Will you repeat that, Mr. Lewis?
11	THE WITNESS: He picked me up at the
12	airport and then we went home.
13	MR. BELDOCK: She said they stopped
14	by and had some soup.
15	THE COURT: All right.
16	Q Now, do you recall whether there was any
17	communication from George or Theresa that night? June 8th?
18	A I think right after we got home George called Stan.
19	Stan got a phone call from George.
20	Q And did he talk to him for a while?
21	A I don't think he talked he didn't talk to him
22	very long. And I was going up and downstairs, you know,
23	took my suitcase suitcase up and was you know
24	Q Do you recall at this time anything that
25	Stan may have said about that phone call or anything that

'	Robbins-Direct
2	he did at that time?
3	A I think that was the time that he wrote down Theresa'
4	full name, you know.
5	Q Now, did you have occasion to see George or
6	Theresa on the weekend of June 8th?
7	A Yes.
8	Q Where did you see them first?
9	A At the house on Perry Street, out front. They rang
10	the doorbell and I went out, and they had the baby with
11	them, and they gave me apresent, a bracelet. They had been
12	in South America and they brought me back a bracelet. And
13	we went down to the corner and had a Coca-Cola and talked
14	for a while.
15	Q Where did you go? The name of the place.
16	A The Riviera. It's on the corner of West Fourth and
17	Seventh or something. And
18	THE COURT: Are you having difficulty,
19	Mr. Fried?
20	MR. FRIED: At the very end of her sentence
21	her voice drops.
22	Q You have never testified before, have you?
23	A No.
24	Q Would you I will go over here to the other

Would you -- I will go over here to the other side and project your voice so that you can reach me all

'		Robbins-Direct
2	the wa	y over here.
3	A	Okay.
4		Q Now, you said that you went to the Rivier with
5	George	and Theresa and you had some Cokes?
6	A	Yes.
7		Q Were you all having Cokes?
8	A	No, George and Theresa were having beers and they
9	had be	en to a festival on I don't know
10		Q What kind of festival, did they tell you?
11	A	An Italian festival or something.
12		Q Was Stan there
13	A	No.
14		Q that day when they arrived?
15	A	No, he was working.
16		Q About what time did you say they came?
17	A	It must have been about four in the afternoon.
18		Q Did you have an occasion to see either George
19	or The	resa over that weekend?
20	A	Yes.
21		Q When?
22	A	I saw George Sunday night.
23		Q Where?
24	Α	He came over.
5		Q Was Stan there?

Robbins-Direct

'	RODDINS-DITECT
2	A Yes.
3	Q Was anyone else there except yourself and
4	Stan?
5	A No. He -
6	Q What happened, tell us what he said, what Stan
7	said and what you said and what was done?
8	A He brought the he brought Stan a present from
9	South America too. It was a paper weight, a polished stone
10	paper weight. And we sat and talked, and Stan was telling
11	George about the club that he was putting together and
12	about having to
13	MR. FRIED: Your Honor, I object to this
14	again. I think it's irrelevant and has nothing
15	to do with the allegations of the indictment.
16	THE COURT: No, I will allow it. There
17	is a claim that both Freeman and Morao were
18	co-conspirators in this conspiracy, and I will
19	allow it.
20	I will allow to to show that the association
21	was a legitimate one, had nothing to do with the
22	cocaine business.
23	THE WITNESS: Shall I go ahead?
24	Q Yes.
25	λ And they were talking about Stan for opening night

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Tuesday night, Stan was going to have a, sort of a buffet for the customers, and they were talking about food, and George was talking about what a great cook he was, how he could make great shishkabob, because Stan was thinking about having shishkabob. So George told Stan he was planning to have someone make shishkabob, a large: order of shishkabob, and George said that he could probably do it for Stan and that his was special and it would be better than the others, you konw.

And then they planned to meet the next day and check on the price of shishkabob from somebody who made -- would make it up, you know, and -- and --

> Were you -- withdrawn. Q

About how long did George stay on that occasion? A Oh, it must have been about an hour or so. I don't know, we were just talking and laughing. And Stan hadn't seen George in a long time and so, you know -- and George had his hair all cut off about an inch long -- it had been down to here -- and he looked so different you know, --

Now, you know what this case is about, you know what this case is about, you know what the charges are, don't you?

Yes. A

Q During that meeting on Sunday night was there

Robbins-Direct

any	disc	uss	ion	betwee	en George	and	Stan	about	a	shipment	of
coca	aine	or	impo	orting	cocaine?						

- A No.
- Q Did you have occasion to have any other communications with George after Sunday night, June 10th?
- On Monday afternoon Stan had left to go to the hotel George called and wanted to know where Stan was, because they were supposed to go check out the shishkabob, you know, who made shishkabob.
- Q Do you recall what you told George then?

 A I told him to call Stan at the hotel or something,
 you know. And then Stan called and I told him that -- you
 know -- George called.
- Now, did you stay in New York City the rest of that week?
- A No, no.
 - Q When did you leave?
- 19 A I left on Tuesday night.
 - Q When was the opening of Le Jarden scheduled?
- 21 A Wednesday night.
- 22 Q Had you planned to leave before it opened?
- 23 A No, I had not planned to, no. I was going to
 24 get a new dress to wear.
 - Q Why did you leave?

Robbins-Direct

A	Because I got very upset with Stan because he had
been	working constantly for, you know, two or three weeks,
what	ever, and I had gone home for a week to take the kids
and	I came back and I thought I, you know, could handle it,
bein	g alone and all that, and we had a a fight and I
just	and I left. And and went home.

Q Went to Atlanta?

A Yes. I guess I thought it would be especially mean to go home the night before opening or something.

MR. FRIED: Somewhere I think I missed a word.

THE COURT: Get it from the reporter, please.

If you want it read back I will --

MR. FRIED: I would like the beginning of thelast answer.

THE COURT: All right, then Mr. Lewis, would you please read it back?

(Answer read.)

THE COURT: We'll take a short recess.

(Recess taken.)

(Continued on the next page.)

EK:ssl 4PM1 folls FL

(At 3:45 o'clock p.m. the trial resumed.)

THE COURT: I'm sorry I was delayed.

All right, go ahead.

BY MR. BELDOCK:

Q During the time you were in New York City and had these two meetings at which George and Theresa were present the first time and George was present the second, and the telephone calls, did you learn where George and Theresa were staying in New York City?

- A I knew they were staying in a hotel.
- Q From whom did you learn that?

 Did you have any conversation about it with anyone?

I think Stan said something to me about it on Friday night, you know, but -- we discussed it with George on Sunday night and I asked them if it was a terrible place to stay. I think I thought they were staying there until their luggage was ready, and I asked George if there's soap and towels and now bad it was, you know. I think Friday night I remember something where Stan and I discussed having them stay with us or something, you know, but nothing came of it, we didn't -- then Sunday night I may have mentioned it, but George didn't accept or something.

THE COURT: Well, did you say that you

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Robbins - direct

left on Friday, the 8th, and went back to Atlanta.

MR. BELDOCK: No --

THE WITNESS: No, I left on Tuesday.

THE COURT: On Tuesday?

THE WITNESS: I came back to New York

from Atlanta on Friday, the 8th, and then --

TH E COURT: Friday the 8th?

THE WITNESS: Yes.

THE COURT: Then had you left, did you

say, because you had some dispute.

THE WITNESS: I think Tuesday.

THE COURT: Yes?

Why did you leave.

THE WITNESS: When he -- I went back to

Atlanta on Tuesday --

THE COURT: Yes?

THE WITHESS: Yes, we had a fight.

THE COURT: On Tuesday June 12th?

THE WITNESS: Yes, I got mad and left.

THE COURT: That was the day.

THE WITNESS: Yes.

THE COURT: Now, when did you net return

to New York.

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THE COURT: You heard nothing else, you don't know if they actually did stay.

THE WITNESS: I didn't find out until later.

THE COURT: All right.

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THE WITNESS: I didn't know what had gone on after I had left, you know.

THE COURT: Okay.

BY MR. BELDOCK:

Q Just to be sure that the judge heard your testimony before, you were also talking about some conversation a few minutes ago that you thought you had with Stan on Friday night after the call?

A Yes.

Q Would you relate that again?

A I said something like, you know, it just -- it went back like, "I guess we should have them stay with us," but I didn't think anything about it, you know.

Q That is a very vague memory in your case, right?

Q Theresa spoke English, is that right, she could speak English?

Yes.

Q Well?

Pardon.

A Yes, yes.

Well?

I -- I -- I couldn't -- I had trouble understanding A

Q How about George?

	0.7					
2	A I hardly ever understood what George said well, I					
3						
4	Q What was his manner of speaking?					
5	A He just had a heavy accent and Stan understood and I					
6	understood I mean I just sort of you know I liked					
7	George, so					
8	THE COURT: Do you know where he is now?					
9	George?					
10	THE WITNESS: I think he is in Spain.					
11	THE COURT: Spain?					
12	THE WITNESS: Spain or					
13	THE COURT: How do you know that?					
14	THE WITNESS: Stan told me.					
15	THE COURT: Do you know where he is in					
16	Spain?					
17	THE WITNESS: I can't remember.					
18	BY MR. BELDOCK:					
19	Q Do you know how Stan found out where George					
20	THE COURT: Wait, wait, Mr. Beldock, wait,					
21	wait.					
22	Do you know if it is in one of the big cities,					
23	Barcelona or Madrid?					
24	THE WITNESS: I think he is in Madrid.					
25	THE COURT: Madrid?					

Anything else.

MR. BELDOCK: If there is any question about that, your Honor, I can bring it out, but

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it doesn't seem to me to be necessary.

THE COURT: I just happened to ask a

question, that is all.

BY MR. BELDOCK:

Q Let me just mention a city, if I mentioned the city of Lisbon, does that make any sense?

A That, yes, I always thought that was in Spain.

MR. BELDOCK: I have no further questions.

THE COURT: Mr. Fried.

CROSS-EXAMINATION

BY MR. FRIED:

Mrs. Robbins, you stated that you left New York City on June 12th, is that correct, on a Tuesday?

A Hm.

Q You said you went back to Atlanta?

Yes.

Q Could you tell us again the reason why you went back to Atlanta?

A I was, I got very depressed that day because I was alone and because Stan was working so much, and it had been nice the week before, and I don't like N ew York, you know, because I just don't like it, so I just -- then the night before that I was getting a shower and the lights went out and there was a flash of -- you know -- you know, you don't

know what is going on, the lights went out and I am -- I was undressed and I just was somewhat scared to death and Stan had to come home and fix the fuse, and he got mad because I got so scared because the fuse went out and the fuse is in the building next door, and I got mad because he got mad at me because, for being so scared. I was lonely the next day so I said I'm going home and wait until he got, he decided -- well, to wait until he got the club going and everything, you know.

Q In other words during this time that you now described, you said you were lonely, is it fair to say that Mr. Freeman was busy working, was out of the house for large periods of time when you were basically waiting for him to come back?

A Yes, I went with him to work Monday but I just, you know, there was nothing for me to do there, I felt.

MR. FRIED: I have no further questions.

THE COURT: Anything further.

MR. BELLDOCK: Just one.

REDIRECT EXAMINATION

BY MR. BELDOCK:

Do you recollect the approximate hours that Mr. Freeman would come home, let's say on Monday or Tuesday, before you left, that would be, let's just take the 11th --

A Yes.

Q That is the night you say he came back and fixed the light?

- A That was Sunday night.
 - Q That was later?
- A It wasn't that night, it was Sunday night he had to come home and fix the light.
 - Q Did he go to work Sunday night?
- A No, he didn't go back to work after he fixed the lights
 - Q Let's say Monday?
- A Monday, I guess it was twelve, one or two, you know.
 - Q Were you asleep when he came in?
- A No, I can't -- you know, I couldn't sleep.
 - Q You don't recollect?
- A I couldn't sleep until he got home.

MR. BELDOCK: Thank you.

No further questions.

MR. FRIED: I have no further questions.

THE COURT: You may step down.

(The witness was excused.)

THE COURT: Next witness, Mr. Beldock.

MR. BELDOCK: Yes, Mr. Heller, please.

(Continued on next page.)

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2	ROBI	ERT M. HELLER, called as a witness on
3		behalf of the defendant Freeman, having been duly
4		sworn by the Clerk of the Court, testified as
5		follows:
6	DIRECT	EXAMINATION
7	BY MR.	BELDOCK:
8		Q Mr. Heller, you are an attorney at law; is that
9	correct	-
10	A	Yes.
11		Q You have been licensed to practic e in the State
12	of New	York?
13	A	Yes.
14		Q When?
15	A	1964, '65.
16		You are presently employed where?
17	A	Retar Development Corporation .
18		Q As an attorney?
19	A	I am house counselor and vice president of the
20	company	
21		Q You have been in continuous practice since
22	admitte	
23	A	No.
24		THE COURT: What was that, Retar, R-E-T-A-R.
25		THE WITNESS: Correct, sir.

I was also a stock broker and at one time I was involved in the entertainment field.

Q Do you know Stan Freeman?

Yes, I do.

Q Approximately when did you meet him?

A Four or five years ago.

Q Under what circumstances?

At that time I was a manager of a group that I had recently signed for recording called the Vanguard and I was having a difficult time finding them work and some people recommended that I see Stan Freeman, at the time he was running a place called the Electric Circus in Manhattan.

Q And did something come of that?

A Yes, he hired these two people, these two entertainers to play when things weren't too good for them at that particular time and he was extremely generous with them and with his time.

> THE COURT: Is this again a character reference.

> > MR. BELDOCK: Yes, it is.

I didn't expect to bring that out, I just wanted the skeleton of the relationship.

THE WITNESS: I'm sorry.

BY MR. BELDOCK:

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THE COURT: Have you ever heard anything of a derogatory nature that might affect his reputation as a law abiding citizen, as a man of integrity.

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THE WITNESS: No, sir.

MR. BELDOCK: As long as your Honor has asked that question I may as well establish the basis for it. I did of course complete my character evidence as to truthfulness and honesty but --

BY MR. BELDOCK:

Q During the course of the time that you have known Mr. Freeman, have you heard people speak about him in regards to the question of whether or not he has a reputation as being law abiding?

A I never heard anyone say contrary to that.

MR. BELDOCK: That would be the negative character evidence, and in that respect I didn't think it was necessary.

Thank you, sir.

CROSS-EXAMINATION

BY MR. FRIED:

O Mr. Heller, you testified that you have gone out on occasion with Mr. Freeman and his family; is that correct?

A Yes, sir.

Q On any of those occasions were you joined with other persons?

A No, I don't remember any others.

Let's see, I met some neighbors that lived on the same floor that came in, but I don't remember any business associates -- some attorneys that both of us knew as friends. Q Do you know what Mr. Freeman's reputation in the community is insofar as drugs are concerned? THE COURT: Objection sustained. I won't allow that. MR. FRIED: I have no further questions. THE COURT: Anything else? MR. BELDOCK: No. THE COURT: You may step down. MR. BELDOCK: Just one moment. THE COURT: You are excused. THE WITNESS: Thank you, sir.

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Q Two years from when?

(Continued on next page.)

No, sir.

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Q Can you give us a resume of your educational, professional and business background? Let's start with -- well, I'll withdraw that.

Let's just start with your education.

A I graduated university, from a school called Olivet, in January of 1957.

The major that I selected at that time was economics.

Although I had sufficient credits to take a major in psychology, philosophy, English or economics, but I stuck to economics, and I received a Bachelor of Arts in Economics.

Q Do you have any post-graduate education?

A Well, I had an additional forty-two hours credit at that time that could have been applied to a further graduate course.

Q You then went into business; is that right?

I should add, sir, that I had a scholarship opportunity at that point to the Harvard Business School, but their -They didn't begin until September, and I graduated in January, and during that period of time, I went back to Canada and became involved in business, and then married, and never went back to graduate school.

What year are we talking about now?

A This is 1957.

Q Is that Braun Freeman who you married?

A Yes.

Q When did you next come to the United States?

A In 1959, December of 1959. I came as a Director of Marketing for a Canadian electronics firm. We were manufacturing consumer electronics, stereo sets, television sets, and, at the same time, representing Braun of Germany, the people that manufacture appliances and radios, and I established distribution in the United States for our product.

Q Without going into all of the details of your activity, can you give us a summary of the business activities from there on through 1973, or through '72?

A I was with Clariton, this electronics firm, from 1959 through January 4, 1966, at which time I decided to go out on my own and to enter the music business, the entertainment business.

And I put a rock group together in Toronto at that time called Steppenwolf, which I brought to New York in the spring of '66, for exposure, negotiated a record deal for them with Columbia records, and they have since gone on to become a major attraction in the world, not just in the United States.

At that point in time, I came up with the concept for the Electric Circus, which was a multi-media theatre, and proceeded to raise the funds necessary to build this facility, which I eventually did, and began construction in March of 1967. I raised some \$300,000 to put this together, opened the Circus at the end of June, in 1967, and it was the most successful

Freeman - direct/Beldock

But on a day-to-day business sense -- In a day-to-day business sense, I was looking into the production of a film, and I was negotiating to purchase several film properties, because that was the next thing that I wanted to do, so I was spending a lot of time reading properties.

A I was putting together a nightclub, from stem to stern, so to speak, called -- actually two clubs simultaneously, one called Le Jardin, and the other club called Club Prive, and trying to get both open simultaneously in a period of about four weeks from the time we started construction.

Q Located where?

A In the Diplomat Hotel.

Q The Club Jardin was in the basement; is that right?

Yes, in the basement.

Q And the Club Prive was --

A On the roof.

Q Thank you.

Let me just go back -- Before we proceed with that period of time, let me go back to the time after the Electric Circus closed.

At around, or after that time, was there any major change in your private life?

'

Well, prior to closing the Circus, I became separated with my wife. Some time in the early part of '71, I believe it was February or March, and it was a very difficult time in my life, to say the least. It was an incredible emotional shock to me when I was asked to leave home, and I just wasn't too together for a period of time.

Q With whom were you working in connection with the two clubs you mentioned?

A A chap named John Addison.

Right. Exactly.

Q And you've heard Joy testify a few moments ago about when you relationship started with her, the fact that you've been living together since July of '72; is that right?

Q Was her testimony accurate in those respects?
Yes, sir.

THE COURT: I am only allowing that form of question because we have no objection. You know it is improper. One witness cannot pass on another witness' credibility.

MR. BELDOCK: I am only trying to save the Court and counsel time for the -- You know, I can bring it out, if your Honor thinks there is any reason to bring it out.

THE COURT: No. I would just as soon take

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it this way. I just want the record to disclose I know it is wrong.

Go ahead.

Q Before your arrest and imprisonment in this case, had you ever known or heard of Francisco Rudge?

A No, sir, I hadn't.

Q Posing you the same question, what would your answer be in regard to Marilene Tambini?

A Identical, sir. I have never heard of her.

Q And the same question with re ard to Hermano Albuquerque?

A Yes, sir. I'd never heard of Hermano Albuquerque, either.

Q However, in regard to a man named George, you knew him; is that right?

A Yes, I did, sir.

When, approximately, were you first introduced to George? When did you first meet him, I should say?

I believe it was some time towards the latter part -the fall or the latter part of 1971, when I had moved and was
living at Perry Street, at the Perry Street address.

Q When did you meet, if you -- When did you meet
Theresa?

Some time afterward. It would have been -- I would say

perhaps a month, perhaps a month and a half later, having met Theresa.

- Now, prior to June of 1973 -- I:ll withdraw that.

 Did you see George during June of 1973?
- A Yes.
 - Q I am not asking you when, but did you see him?
- A Yes, I did.
- Q Prior to June of '73, can you tell the Court when it was that you last saw or spoke to Theresa and/or George?

 A All right. The last that we saw, or I saw Theresa was
- at a dinner party at a friend of George and Theresa's called Carlos, and he had a going-away party for Theresa. She was leaving for home, to Brazil, the following morning, to show the grandparents their son, and George cooked up an incredible feast, and we were going to a concert that same eveing, and after the concert, came back for dinner.
 - Q What concert and where?
- A This is the Deodato Concert at the Felt Forum on April the 20th.
 - Q Why do you say April 20th.
- A Because I -- in order to verify the date, it just so happens that your firm represents Deodato, and we could verify the date.
 - Q I advised you of the date; right?

2 A Yes, sir.

Q But it was a concert around that time?

A Yes.

Q You say that's the last time you saw Theresa before June. How about George?

Week or ten days after Theresa had left, and then I saw him again about two weeks after Theresa had left, which would take us into perhaps the first week of May. Is that right? Roughly about the first week of May, at which time he told me he was going off, take a little vacation. He had mentioned Woodstock, that he thought perhaps he'd go up to Woodstock for a week or ten days, and I had heard him speak of Woodstock prior to that, and that was it. He was going to Woodstock, as far as I was concerned.

Q And when did you next hear from him in any way?

A On Friday, June 8, he telephoned just after we returned from the airport, or shortly after.

We had some soop and bread, came back to the house, and I just turned the lights off in the house downstairs. We were just

R2 fls

about to walk upstairs when the phone rang. I think Joy proceeded upstairs, and I went back down and picked up the phone in the diningroom, and it was George on the phone. It was a very pleasant surprise.

(continued on next page.)

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Q What name did you know him as?

A I knew George by two names. I had originally met

George and the name at that time, if I heard his second name

at all, if I didn't hear it then I heard it shortly afterwards, was Morao, George Morao. Sometime in this past year,

George gave me an answering service number, where I could

reach him if I wanted to speak with him, and the name then

was registered under George Simon, so when you called the

answering service and you wanted to leave word for George, you'd

have to say I want to leave word for George Simon.

Now, on this occasion, on the night of June 8th, when the phone call came in, who was on the phone?

A It was George.

Q Would you tell us what he said to you and what you said to him and anything else that happened on that occasion, as you remember?

He said hi, both he and Theresa were back in town, not having mentioned that he went to South America even at that point but I assumed immediately upon hearing that we are both back in town, that he had obviously gone to South America to meet Theresa. They're back in town. They've got some gifts for Joy and I, when would be a convenient time to bring them over and I said gee, I don't know because I am working eighteen hours a day, but, you know, we can figure it out.

And then at the same time he'd mentioned that Theresa was having an immigration problem. He asked if I could suggest or recommend an attorney to represent her in this particular situation, and I said I have a friend that used to do work for me years ago who I can call. Perhaps she can or can suggest someone who might be able to assist in this particular matter. I said let me call you right back, and he gave me a phone number where I could reach him that evening. I wrote it down.

And I then called Nina Raoul Cameron, to ask if she could recommend an attorney, because when George called -- George was a little bit panicked about the problem, if I may characterize it a bit.

Q What did he say? What did he explain to you on the phone about it?

A He said that in Sao Paulo, they had arranged for a tourist visa for Theresa. I think he had said he had conned a tourist visa for Theresa from the consul in Sao Paulo.

Upon arriving in New York, Theresa had gotten teed off at or annoyed with the immigration inspector because her son is an American, her son was born in the United States and her son is in fact a United States citizen. She had in the past applied for permanent residency but there was apparently an eighteen month quota for Brazilians.

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Try to limit yourself to what George told you.

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I'm sorry. Excuse me.

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During the discussion with the immigration man at the airport, she mentioned to him that she had applied for a permanent residency, some two months prior, since you are not allowed -- once you have applied for a permanent residency, you no longer are allowed --

MR. FRIED: Your Honor, I object to

this witness' --

THE COURT: Objection sustained.

Strike it out.

THE WITNESS: What did I do?

Try to limit yourself to what George told you.

This is what George told me. I'm sorry.

George told me that was the problem, that since she had applied for a permanent residency and since she told the immigration man that she already had applied for a permanent residency and since she had come in or was coming into the country with a tourist visa or tourist permit, whatever it might be, they contradicted each other and they therefore received a summons to appear at immigration court and he was very concerned about her being able to stay in the country.

Anything else in that conversation, that you recall? If not, we'll go on.

A No. That's about it. That's the essence of it.

You said that he gave you a -- well, I won't characterize it.

You said that you wrote something down. Would you go over that part of the conversation, what did he say, what did you write down, to your recoilection?

I wrote down his phone number and an extension, where to reach him, and his name, and at the same time asked nim for Theresa's full name, which I wrote down as well.

Q Did he say under what name, if anything -withdrawn.

Did you hear that, your Honor? I'm sorry.

THE COURT: No. I did not. Repeat it.

MR. BELDOCK: There are two pieces of evidence that have been displayed. Perhaps I could display them to the witness.

THE COURT: May I have that, Mr. Rudolph? (Record read.)

(Continued on next page.)

Freeman - direct

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Q I'll show you government's exhibit 4 in evidence, which is an envelope you now have b efore you. Would you tell me what this is?

A This was the --- the envelope that I wrote George's phone number and extension on.

MR. FRIED: Mr. Freeman, could you speak up, please. I'm having trouble hearing you.

THE WITNESS: I beg your pardon.

This is the envelope that I wrote George's name, the phone number and the extension where I could reach him upon finding out the name of an attorney for Theresa.

Q There is another name on that. That has nothing to do with this, does it?

A No it doesn't, sir.

Q What is that?

A It's Cycle Service Center, LeBusier (phonetic), and nis phone number.

Q What has that got to do with it?

MR. FRIED: Again, your Honor, I can't hear.

MR. BELDOCK: I'm sorry.

Q What is that name?

A I just had my motorcycle tuned by this chap.

Q This other document, government's exhibit 3 in evidence, whose handwriting is that?

A That's my handwriting, sir.

Q All of it?

A All of it.

Q When did you write down the names that appear there, if you recall?

A These are -- are all of Theresa's names, which I had written down as George gave them to me on the telephone that same evening.

Q Did it have to do with the immigration matter?

A Yes, I asked for her full name so if I described the situation I would at least know of whom I was speaking.

Q And then there are some other writings on it that have nothing to do with the names. There are some numbers. What do they mean?

A That was a quotation on an air conditioner. I had just nad an air conditioner burn out, and I called Bright's in Manhattan, where I know some people.

Q There are some numbers above, and what's that word?

A That's the name of the store.

Q What's that?

A Bright's.

Q Did you have occasion to speak to or see George
Morao or Theresa on -- withdrawn.

If I remember correctly, you said at the end of the call that you would call him back?

A Yes sir.

Q Did you call him back on that Friday night?

A Yes sir, I did, I called back.

Q After you --

A After I spoke with Nina.

Q Cameron?

A Cameron. And advised him that I couldn't let him know until some time around noon on Monday, because she was on her way out and didn't have time to go into the entire situation, and couldn't make a decision until I had told her the facts as I knew them.

Q Anything more to that conversation?

A No, that was the end of the conversation, except that we would see him sometime over the weekend.

Q Did you have any discussions with George or any contact with George in person or on the phone or otherwise on June 9th? That is Saturday?

A No sir.

Q Did you have any communications or contacts with George or Theresa on June 10th?

On June 10th -- That was Sunday?

Q Yes. Incidentally, before you go into June 10th,
I think I just asked you abou tJune 9th in regard to George.

How about Theresa?

A No, I hadn't seen her or George.

Q All right, now, June 10th. When and where did you have communications with either of those people?

THE COURT: We are going to have to suspend. This case will continue tomorrow at two o'clock, and I expect it to finish tomorrow.

I assume this is your last witness?

MR. BELDOCK: That's correct, your Honor,

except perhaps for a character witness we couldn't

get in today because of his busy schedule.

THE COURT: At this point do you know whether the government is going to have rebuttal?

MR. FRIED: At this point the government is not planning rebuttal. It depends on how the testimony develops .

THE COURT: All right, two o'clock tomorrow.

MR. FRIED: Your Honor, before you leave, with the consent of the defendant, Mr. Beldock, we have agreed to substitute a copy of government's exhibit 51, which is the advice of rights card.

THE COURT: All right, let it be marked.

(Copy of advice of rights card marked

Government Exhibit 51 in evidence.)

(Whereupon an adjournment was taken at 4:25 o'clock p.m. until Tuesday, September 18, 1973 at 2 o'clock p.m..)

. . . .

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* * * *

- 1	
2	UNITED STATES DISTRICT COURT
3	EASTERN DISTRICT OF NEW YORK
4	x
5	UNITED STATES OF AMERICA, :
6	-against- :
7	STATION FREEMAN and : 73-CR-633
8	KIM ORNITZ,
9	De fendants.
4	•
10	x
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	United States Courthouse
12	Brooklyn, New York
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	September 18, 1973
14	2:05 o'clock p.m.
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16	Before:
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"	HONORABLE JACOB MISHLER, CHIEF U.S.D.J.
18	
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21	
22	
23	WINFRED D. LEWIS
24	OFFICIAL COURT REPORTER

Appearances:

ROBERT A. LORSE, ESO., United States Attorney for the Eastern District of New York

BY: BURNARD J. FRIED, ESQ., Assistant U. S. Attorney

PATRICK H. WALL, ESQ., Attorney for defendant Ornitz

MYPON BELDOCK, ESQ., Attorney for defendant Freeman

THE CLERK: Criminal cause on trial,
United States of America versus Stanton Freeman.

THE COURT: Both sides ready?

MR. FRIED: Yes, your Honor.

Yesterday Mr. Beldock asked that his client be returned the diary that was siezed on June 18th, and that was done just recently. I'd like to mark this a government exhibit for identification.

THE CLERK; So marked Government Exhibit
55 for identification.

MR. FRIED: Mr. Freeman's diary.

THE COURT: Will you please resume, Mr.

Freeman.

MR. BELDOCK: Your Honor, with your permission, I'd like to suspend Mr. Freeman just for a few moments and call a character witness, an attorney.

THE COURT: All right, call your witness.

MR. BELDOCK: Take the stand, please.

ROBERT W. COX, having been called as a witness, and having been duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. BELDOCK:

1	Cox - direct 907
2	Q How old are you, Mr. Cox?
3	A 36.
4	Q You are an attorney at law admitted in New York
5	State, is that right?
6	A Yes sir I am.
7	Q And When were you admitted?
8	A Approximately three years ago, four years ago, sir.
9	Ω And where are you presently employed?
0	A I'm presently employed as a partner of the internation
11	al law firm of Baker & McKenzie. Our offices in New York are
2	at 375 Park Avenue.
3	Q During your career as an attorney have you ever
4	held any official positions?
15	A Upon graduation from law school, I commenced employment
16	in Washington with the United States Securities and Exchange
17	Commission. I served in the office of general counsel for
18	three years, until 1965.
19	From 1965 to 1967 I served as executive legal assistant
20	to securities commissioner Byron Woodside. In '67 I joined
21	Baker & McKenzie.
22	Q Were you a lawyer at that time, '65?
3	A Yes sir.
4	Q You were admitted in some other jurisdiction?
_	A I was admitted in the state of Indiana.

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Q When?

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1962.

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Do you know Stanton Freeman?

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Yes sir I do. A

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Approximately when did you first come to know

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him?

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I believe in the fall of 1968, while I was an associate

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of Baker & McKenzie. The firm at that time was representing

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the Electric Circus, its corporate activities, and I partici-

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pated at that time in assisting the firm represent the Electric

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Circus in the private placement of securities. And Mr.

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Freeman served as an officer of Electric Circus.

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And from what extent from that time on did you have contact with Mr. Freeman or the Electric Circus affairs?

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A Well, from the fall of 68 at least through the Chapter

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11 proceeding of the Llectric Circus, which I believe was 69-

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70, sometime in that area, I would say the contact with Mr.

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Freeman as well as other members, other people who served as

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officers and employees of the Circus, was anywhere from four

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or five times - weekduring working hours and sometimes after-

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Since that period of time, since about 1970,

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have you had any other relationships with him, have you met

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him, seen him?

wards.

A	Well,	I've me	t him and	I've vis	sited with	him on	a	numbe
of	occasions.	I.ess	frequently	than du	uring that	period	I	just
de	scribed.							

- Q During the time that you knew him did you have occasion to go to his home on one or more occasions?
- A Yes, I was a guest in his apartment on 62nd Street, I believe, on a number of occasions, and also on I believe one or two occasions at his apartment in the village.
- Q During the time of your testimony of your knowledge and association with Mr. Freeman and others, did you
 hear any -- did you hear people speak of Mr. Freeman, and
 particularly in regard to the question of whether or not he
 had a reputation in the communities you have described as an
 honest and truthful person?
- A Yes sir.
- Q Did he have a reputation for honesty, truthfulness, voracity?
- A Yes sir, he does and did have a reputation .
- Q What was his reputation in regard to truthfulness, honesty?
- I believe his reputation to be very high, excellent.
 - I might elaborate, if I -- if I may on that. No?
- Q I think that isn't usually permitted, unless counsel wishes to --

MR. FRIED: You Honor, I object to a further statement beyond what he knew --

THE COURT: He just answered the question, that's all, the question thatwas asked.

Ω I'll ask you the same question with regard to whether you have heard people speak of Mr. Freeman as to whether or not he had a reputation as a lawful person, a law abiding person?

A Yes sir, I do, and --

Q And did he have a reputation in that regard?

A Yes.

Q And what was his reputation?

A Reputation was excellent.

MR. BELDOCK: I have no further questions.

Thank you, Mr. Cox.

THE COURT: Any questions, Mr. Fried?

MR. FRIED: Yes, your Honor.

CROSS-EXAMINATION

BY MR. FRIED:

Sir, you stated that you represented in a legal capacity the Electric Circus during the time that it went from a partnership to a private corporation; is that correct?

A I was an associate at the time, employed by the firm and certain of my responsibilities involved that.

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2	Q_ At the time that it went to a corporation do
3	you recall the name of the firm that handled the private
4	offering?
5	A The name of the
6	Q Banking firm?
7	A (Continuing) banking firm was Laidenberg, Laidenberg
8	Thalman.
9	THE COURT: The private offering?
10	MR. FRIED: That's right, your Honor.
11	THE WITNESS: Private placement of
12	securities.
13	Q Can you tell us, if you know, the size of that
14	offering in terms of dollars?
15	MR. BELDOCK: Your Honor, I
16	A \$657,000, approximately.
17	MR. BELDOCK: I object solely on the
18	grounds of relevancy.
19	THE COURT: Objection sustained. Strike
20	out the answer.
21	MR. FRIED: Your Honor, I would make an
22	offer of proof at this time that it's relevant
23	to a line of questioning that the government in-
24	tends to develop.

MR. FRIED: But he's taking the stand,
your Honor. The government can convert him
into a witness for this purpose. The defendant
has put him on the stand, the government is
entitled to --

THE COURT: What do you intend to show through this witness?

MR. FRIED: I intend to show the nature of the Electric Circus and what happened to it.

THE COURT: All right, but what has that got to do with this case? Does it bear on his reputation for truth, honesty, voracity, or as a law abiding citizen?

MR. FRIED: It doesn't bear on that question, your Honor.

THE COURT: All right, what I --

MR. FRIED: It bears on the question of motive in this conspiracy.

THE COURT: Are you going to try to show the nature of the transaction and the proceeds of the transaction, and whether or not they came to Mr. Freeman or whether he lost money on it.

MR. FRIED: Your Honor, as I understand the defendant's testimony on direct examination,

the Electric Circus sometime in 1970 or 71 closed.

I think it's relevant to show the circumstances
of the closing of the Electric Circus.

THE COURT: Why?

MR. FRIED: I think it will become apparent to the court after I am allowed to develop these few questions.

THE COURT: You say you are going to make an offer of proof. The offer so far --

MR. FRIED: The offer of proof is that the government will establish a motive on the part of the defendant Stanton Freeman to participate as a co-conspirator in this --

THE COURT: As a co-conspirator in this conspiracy?

MR. FRIED: That's correct, your Honor.

THE COURT: All right, there is no jury

MR. FRIED: Thank you, your Honor.

THE COURT: I don't see it at all. You are just trying to show some wrongdoing in the transaction.

MR. FRIED: No I'm not.

here. Go ahead. Good luck to you.

THE COURT: Go ahead.

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2	MR. FRIED: I'm not showing wrongdoing
3	in this transaction.
4	Q Mr I'm sorry, sir, I forget your name?
5	A Cox.
6	Q In 1971 did the Electric Circus close?
7	A I believe it did, yes sir.
8	Q And in 1971 did the Electric Circus file, as
9	you just stated, a Chapter 11 petition in bankruptcy?
10	A I understand they did, that's correct. We did not
11	represent them in connection with that proceeding.
12	Q You didn't?
13	A No sir.
14	Q Do you have any personal knowledge from your
15	representation of the from your membership of the firm
16	that represented the Electric Circus of whether any debts
17	survived the bankruptcy petition that was filed in 1971?
18	THE COURT: I would take judicial notice
19	of any papers that are on file in the bankruptcy
20	proceeding, which is in the Southern District, so
21	you need not question this witness, who apparently
22	knows nothing about the bankruptcy proceeding.
23	THE WITNESS: I don't recall.
24	MR. FRIED: Fine. I have no further questions.

THE COURT: Anything further of this wtness?

MR. BELDOCK: No.

THE COURT: You may step down. Thank you.

(Witness excused.)

(Continued on next page.)

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MR. BELDOCK: Can I ask your Honor's assistance, and Mr. Fried's: I know approximately where I left off, but if I could just have the last few questions before me I would know exactly where I was.

THE COURT: Here is my copy of the transcript. Here.

MR. BELDOCK: I have a copy now, Judge.

I'll just take a moment.

THE COURT: Off the record.

(Discussion off the record.)

STANTON J. FREEMAN, resumed

the stand, and further testified as follows:

DIRECT EXAMINATION

BY MR. BELDOCK: (continued)

Q Where we left off, according to the minutes, was communications of any sort that you had on June 10th with George or Sareta.

Will you tell us what happened on that date in regard to either of them?

- A That's Sunday night?
 - Q Whenever it was. You tell me.
- A I think it was Sunday.

Q Sunday night, it is agreed, was the 10th, yes?

A Right. George came over to my house on Sunday night.

It was just before midnight, I believe, or --

THE COURT: Is that Sunday the 17th?

THE WITNESS: 10th, sir.

THE COURT: 10th, all right.

Q It's the 10th. He came over on Sunday night, about how long was he there?

A Somewhere between a half and an hour.

Q Was anyone else there except you and George?

A Joy was there as well.

Q Tell us what he did and what the substance of your conversation was.

You don't have to go into everything that was said; try to give us the essence of what the conversation was.

A Well, the purpose of his visit was to bring a gift to me. The day before or two days before, he had given a gift --

Q What did he do?

A I beg your pardon?

What did he do?

A I'm sorry. He brought over a polished marble paperweight as a gift from South America for me. And we sat and chatted, and we were sitting and talking, discussing the night club,

Le Jardin, and what my plans were for opening night for the food.

Freeman - direct

At which time we got into a discsussion of brochettes for shish kabob and the possibility of is supplying some 2,000 shish kabob for opening night.

we left off that evening with the arrangements to meet the following day to compare prices from a -- a restaurant called the Brochetteria, who supplied the raw shish kabob on skewers.

We checked their prices. They did give us a quotation that would be somewhat less than the price at the Brochetteria.

Q Was there anything else discussed of any significance to this case --

THE COURT: Objection sustained.

MR. BELDOCK: Withdrawn.

- Q Tell us anything else that was said during that conversation by yourself or George that you recall?
- A Nothing at all, sir.
- Now how about the 11th, the next day? Did you have occasion to be in communication with George? Tell us how and what happened, and so on.
- A I called him and -- I spoke with George sometime that afternoon -- I was very, very busy that day. And George said

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MR. FRIED: Your Honor, I object to the hearsay of what Joy --

THE COURT: Objection sustained.

Q You spoke to Joy?

he had heard from Joy.

- A I received a message to call George.
- Q You spoke to Joy. After that, did you do anything regarding George?
- A I called George's hotel, and I spoke with Theresa, who gave me a phone number to reach George.

I then called that number, and the telephone was answered by David, who then --

- Q Had you known or heard of the name David before?
- No, I had never either heard or spoken with David.
 - Q What David are you talking about?
- A Since, David Duffy.
- Q That you have learned about his second name?
 When did you learn his second name?
- A In court, sir.
- Q You called a number that was answered by someone named David. What happened then?
- A He put me over to George.

I chatted with George about the preparation

of the brochettes and prices and -- and what have you.

We then arranged a meeting for the following

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club, and who was the final -- and with whom rested the final decision as to whether we proceeded with the brochettes or not. And we made up -- we set a time period sometime before noon, I believe, on Tuesday, to meet with Johnny Addison and discuss the prices, the product, and see what would happen at that point in time. And that was the last I spoke with George on --

day, for him to meet John Addison, who is the owner of the

June --Q

11th, I guess it was.

Q That's a Monday?

Right.

Q Did you speak to Theresa at all that day? Just the one time. I spoke to Theresa the one time when she --

Q When you said you called the hotel? Yes, when I called the hotel and she gave me the phone number to reach George.

Let's see, June 12th, what, if anything, happened in regard to George or Theresa on June 12th? George came by Le Jardin on the 12th. I don't recall the exact time, I believe it was before noon on the

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12th. And we spoke briefly with John Addison, who was unprepared to commit at that point in time as to --

> MR. FRIED: Your Honor, I object to what Mr. Addison was prepared --

THE COURT: Sustained. It's quite immaterial too.

Q It's just-- you were there and George was there for what purpose?

A With regard to the food, the brochettes for opening night.

Was there any -- withdrawn.

Anything that you said or George said there about anything else beside the brochettes that you recall? A No, sir, strictly dealing with the brochettes.

Q Was there any resolution of the brochettes question on that day or thereafter?

A It was too late to proceed any further at that point in time, at which we were --

Q Let us limit it to any discussion you had with George regarding that, sir. Was there any discussion?

I suggested to George to pass it, it was too late now, we couldn't arrive at any further decision as to price or quantity, and it would be impossible to prepare a sufficient

quantity for the chefs for Wednesday night. And at this point in time we had no alternative but to pass.

Q Any other communications on the 12th with George or Theresa?

A No, sir.

Now we are up to June 13th. Before we get into June 13th, would you give the Court, to the best of your recollection, information about the extent of the hours you were working during the week of June 10th, and what you were doing in regard to Le Jardin or any other affairs during that week?

A During the opening week period beginning on Monday,

June 11th --

Q June 11th.

A (continuing) -- was the time allocated to put together all the variables, the holding items from the prior week's construction, but the electrical work that had -- including the electrical work that had to be done, the audio work that had to be done, the lighting work that had to be done, and then any finishing touches to the facility itself.

So it necessitated a --

MR. FRIED: Your Honor, I object to the relevancy of this whole line of questioning as to what the witness did.

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THE COURT: I'll allow it.

THE WITNESS: It necessitated a 24-hour working day. I personally was there at least 18 hours a day. Perhaps on -- on opening day, even 24 hours, or that whole day.

There was no other way to reach our opening schedule, which had been established some 6 or 7 weeks before, but to proceed at this 24 hour a day pace and we had a work crew going continually during the entire time.

- Q When was the opening scheduled for?
- A June 13th.
 - Q There was mention of 2 clubs, Le Jardin --
- A Le Prive.
 - Q Were they both to open on the same night?
- A On the same night.
 - Q Did they both open on the same night?
- A Yes, sir, they did.
 - Q Were you involved in working on both of them?
- A Yes, sir, I was.
 - Q Did you see Kim Ornitz on the 13th?
- A Yes, sir, he assisted me with the sound system for opening night. We presented Candy Darling, who is a -- an entertainer.

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Can you tell us, if you recall, when you went back to the club, if you did, on the day of the 14th? I believe I returned to the club sometime early in the afternoon. "early" meaning somewhere between 2 and 4 o'clock.

Q Any particular purpose?

An awful lot of work still had to be done that didn'. work -- the sound system was not working well opening night, the P.A. system wasn't working well. In order to put the show on Thursday night, we had to get the sound system worked out and at the same time I had to rehearse with -with Candy Darling, and the dancers and get their show more together and also to move a grand piano from downstairs to the roof.

We'll just finish this sequence.

Do you recall approximately when you left the club and went home, if you did go directly home, on the -in the A.M. hours on June 15th?

This is now Friday, the 15th?

This would be the night of the 14th leading into the morning of the 15th, yes.

As I recall, I left Le Jardin with our public relations lady, and we went to the Brasserie, which is a -a 24-hour restaurant on 53rd between Park and Lex.

Q Just having said that, can it establish in your mind approximately what time you went home that day after the club's business and after the Brasserie?

A Oh, I probably got home about 6:30, perhaps 7 in the morning.

Q Now, June 14 or June 15, had you seen George or Theresa, or communicated with them?

I believe the first that I heard from George was on the 15th, which would have been Friday. Still some doubt as to whether it was the 14th or 15th. I'm not positive.

But to the best of my recollection it was Friday, the 15th.

Q You have heard David Duffy testify that he had been to your house on the 14th and had seen George and Theresa there? Did you hear his testimony here in court?

A Yes, I did.

I'm trying to get the dates and times in my head, sir.

Q All right.

Mr. Freeman, I'm not trying to say anything else except have you heard that testimony?

Now, to the best of your recollection, when -which of the days was it, if you recall? To the
best of your recollection? Let's have the best

A To the best of my recollection, sir, it was on the

Q What happened?

15th, which was Friday, that George --

recollection you have.

A George and Theresa came by my house sometime on Friday afternoon, before I had left for work. Actually quite early Friday afternoon. I recall it was a nice day.

And I asked them one more time, or once again, to -if -- if they would not like to stay at my house as Joy
was in Atlanta and I was there all by myself and I was at
home infrequently because I was working all night, rather
than staying in a hotel, would they rather not stay at my
house.

And they finally consented to stay in the house.

At the same time, Theresa had asked me to pick up something for her at their loft and -- yes, I'm sure this is on Friday, at the same time, and I was going out to get something on my motorcycle and went by their loft and picked up a lens for her camera and a box of personal things.

- Q How did you get in the loft?
- A They gave me the key, sir.

THE COURT: Was George employed at that

time?

THE WITNESS: I have no idea if he was,

you know, an employee, per se. I know he was a film maker, doing film work, doing photography.

THE COURT: What kind of film work?

THE WITNESS: He did some --

THE COURT: Movie taking?

THE WITNESS: Movie, movie making.

THE COURT: Making?

video work, video tape work as well, and he was doing some -- the last thing I recall his doing -- this is prior to his having left for South America or wherever he left to -- was at some settlement house, some free school, and he was doing a documentary on a free school. But I didn't recall which free school it was, and I don't know how many free schools there are in the city.

THE COURT: How far was this loft from your house?

THE WITNESS: Not too far. On the lower east side on Chrystie Street.

THE COURT: Why couldn't George go over?

THE WITNESS: I don't know.

THE COURT: Did you ask him?

THE WITNESS: No. Theresa asked me if I could drop off and get the lens and I was going out on my motorcycle. It was a lovely, sunny day.

George might have gone out, I don't know.

THE COURT: But you were a very busy man at this time?

THE WITNESS: I was very, very busy, but it was after opening, Priday, two days after the opening. I wasn't going to work until sometime later that evening. It didn't have to be too early and it was a pleasure for me to go out on my motorcycle, where I was going out anyway.

THE COURT: All right.

THE WITNESS: Anyway, I proceeded to their loft, picked up something, this camera lens, a 300 millimeter Nikon lens and a UNICEF card box that had a -- some personal effects in it, a bunch of photographs. I think there was a -- some kind of a visa, an old visa of George's, some other personal effects, which we have since turned over to the Government.

BY MR. BELDOCK:

Q When did you find out what was in that box?

A Not until after George and Theresa had left, sir.

Q When did we turn -- you say turned it over to the Government. When was it turned over to the Government, to the best of your recollection?

A Sometime in the middle of August.

Q There was a photograph introduced into evidence, which I think you saw of George Moro.

Can we have that?

I show you Government's exhibit 34, which has a number of photographs. Do you recognize any of the photographs per se, the people in the photographs?

A The photograph on the right lower, the color photograph, was one of the photographs that was in the box that we gave to the Government.

The other ones.

It looks like it was one of the photographs that I was -- as I recall that photograph was in color and here it's black and white and then the enlargement --

MR. FRIED: Mr. Beldock, I will stipulate that the top photograph as well was one that was turned over by the defendant.

Q Had you gone through the items in the box,

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reviewed them and looked at them?

Have I?

Q Yes. Before we turned them over to the Government, had you?

A Yes, sir.

Q I just want you to glance at this -- well, I'll destroy that.

I refer your Honor to defendant's exhibit E in evidence, which is an inventory, which is agreed to be the inventory of the materials turned over.

Now, the Judge asked you if -- not "if," the Judge asked you what Mr. Moro did and you said he was a photographer and so on.

Was he also a person who dealt in drugs, to your knowledge?

Yes, sir.

Q And what drug did he deal in -- drug or drugs to your knowledge?

A Excuse me?

Q What drug or drugs did he deal in?

A Cocaine, sir.

THE COURT: Only cocaine?

THE WITNESS: Yes, sir.

THE COURT: How do you know that?

THE WITNESS: Well, I don't. To my knowledge, that's all that he had ever made available, sir, was cocaine.

MR. FRIED: I'm sorry. I didn't hear that last answer.

THE WITNESS: To my knowledge, all that I know that George dealt in was cocaine.

Q Let's go on with the events of -- the day you were telling about. If you have anything else to recount.

You went over and you picked up the box, as you said, and you came back with the box and the lens to your place.

Was Theresa still there? Was George still there? Was George there the whole time that you were there that afternoon? Anything else that was said about anything that you recall that afternoon?

A George was in and out most of the time. During the period that I was there -- I'm sorry. On that day, I believe, George went out once or twice and then I was gone to pick up the box. So I really don't know what he was doing during that period of time, whether he was in or out.

I then came back with the lens, the box, and was there only a short while, gave George a set of keys to the

Any more communication that you had with George or Theresa on that day, that you recall?

I called, either it was -- I think -- the next morning really, at around one in the morning or 1:30 in the morning, and I called to make sure that everything was all right at home, and I suggested --

Whom did you speak to?

A Excuse me?

Q Whom did you speak to when you telephoned?

A I spoke with George.

house and went on to work.

(continued on the next page.)

What was the conversation? What did he say, what did you say, to the best of your recollection?

A Greetings and salutations, to begin with, and then I said, "Why don't you and Theresa stay upstairs in my bedroom, since I'm not going to be there until the very wee hours, and I don't mind sleeping downstairs at all.

You'd certainly have more privacy if you were upstairs and it's kind of silly, since I'm not there, you not staying upstairs."

He said, "Thank you very much anyway. It's fine.

We're very comfortable downstairs and a friend of Theresa's
has come by, would it be okay if she stays overnight?"

I said, "Of course it would be, no problem whatsoever, and I'll see you when I get home."

Q Let's drop back to the day before, when George and Theresa arrived.

What, if anything, did they bring with them?

A They brought their baby, their little boy and a baby carriage and a bag of -- I guess it was really a large purse that Theresa carried and that was all. They didn't have their luggage at that point in time.

Q Okay. Now we're back to the night of the 15th or the morning of the 16th.

After that phone call, what happened next, in

regard to George and Theresa?

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Tall us when what you did tell us the whole story

Tell us when, what you did, tell us the whole story.
Right.

I came -- I didn't expect to be home until very, very late that night, for whatever reason, the club was very, very quiet. We expected to be very, very busy on Friday night, but it wasn't busy at all and there was no point in my being around, if we weren't very busy.

So I saw this was an opportunity to catch up on some sleep and go home early, which I did, in fact, do.

- Q About what time did you arrive home?
- A At approximately 3:30.

As I rode up to my front gate on the motorcycle,
my friend Ritchie was walking towards my front gate, and as
I was parking the machine, Ritchie walked up to me and asked
me if I knew where Dawn was.

- Q Tell the Judge who Ritchie is, what's his second name and what relationship does he have to any of the people we're talking about?
- A Ritchie Cordell is a friend and business associate and Dawn is my wife with whom I've been separated for the last -- almost two years, and they've been seeing each other for about the last 6 months or something.
 - Q When you say, "they," who?

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A Dawn, Dawn Freeman and Ritchie Cordell.

Q All right.

Now go on. What happened at that point? A He asked if I knew where Dawn was. I said, "How the hell did I know," excuse the language, where Dawn was. I'm just coming home from work. I have no idea where she is."

And he said, "Well, we had a big fight. I don't know where she is."

And -- I said, "Ritchie, hang in a moment. Let me park my motorcycle. We'll go in. Maybe she's in the house. It's possible."

We walked into the courtyard, into the house. As we knocked on the door, the chain was on the door. George had the chain drawn and they were sleeping. There were three people sleeping on sofas in the living room as you walked in the house.

Let's take it chronologically. You knocked on the door. What happened?

I knocked on the door. No. I beg your pardon. I didn't knock on the door.

I put my key in the door. Excuse me... I put my key in the door. I opened the door to the length of the chain. The chain was holding the door closed.

Q What happened?

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Then I pulled the door forward and then someone

opened the chain.

Q Who came to the door?

A Excuse me?

Q Who came to the door?

A George.

Q Did you say anything to him then? Did he say anything to you?

A Well, once I got in the house -- he said, "Hi." I said, "Hi." He undid the chain, let us in the door and I said, "Have you seen Dawn?"

He said, "Yes, she's upstairs in your room."

- Q To your knowledge, had George ever met Dawn?
- A Yes. George had met Dawn in the past.
- Q Was there any further conversation with George at that time?

A No, just to the effect that she came over a half hour or 45 -- half an hour or 45 minutes earlier.

Q You were telling the Court a few moments ago about seeing people sleeping. What did you see?

A Well, I saw -- I saw George, of course, who had let me in. He kind of -- undid the chain. All I could see were two other bodies under sheets.

Q What did you do next? What happened next?

A We just went right upstairs and I sat and arbitrated the discussion between Dawn and Ritchie for about 15 or 20 minutes, half hour, and then they left and I went to sleep, sir.

Q Did they leave together?

A Eventually they left together. Ritchie actually -Dawn wanted to speak to me alone for a moment. Ritchie
went out into the courtyard and was pacing the courtyard
while I chatted with Dawn.

Then I walked Dawn downstairs and then she left and then she and Ritchie met in the courtyard and left.

Q Let's go to the day of June 16th. This is Saturday, the daytime.

Tell us what happened during that day, as well as you can remember.

Start with when you woke up, who was there, what people said, etcetera.

I came downstairs at about noon or half past noon.

I wasn't dressed. I had washed. I had a robe on. I came
down to -- the first thing I did was I went into the kitchen
and put some water on for coffee. I came out and saw
George, Theresa, the baby. I was introduced to Josie.

Q Had you ever met that person before?

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- 2 A No, sir, I hadn't.
 - Q Who were you referring to when you say "Josie"?
 - A We now know as Rosalys Rudner.
 - Q Go on.
 - A If I recall correctly, I believe David was there as well at that point or, if not, came over shortly afterwards.

 I was still in my robe, as I recall, when David came over, or he had been there. I'm really not sure.
 - Q Let me help. There are a lot of things you're going to testify about the 16th.
- This is about shortly after noon, you say?
- 13 A Yes.
 - Q About what time did you leave the house that day, when you left ultimately?
- 16 A When I left ultimately?
- 17 | Q Yes.
- 18 A Approximately 9:30. Sometime just before 10 o'clock.
 - Q Did you also leave the house at any other time during that day?
 - A Yes, I did, sir.
 - Now, during what time period were you gone then?
- A It was right -- early, early afternoon . I -- I

 had my coffee, went upstairs -- I had met everybody.

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Q Just go through the details in your head.

Just give me the approximate time you recall that you were out on that occasion? When you left and when you came back and about how long?

A I went out at about 1:30 or two o'clock, for about a half an hour. May I say where I went and what I did?

Q We will get to it. That's the structure.

A Okay.

Now let's see if I can -- if I may be permitted, your HOnor, rather than go through all the details,
I'll try to just direct the areas.

THECOURT: I wish you would.

MR. BELDOCK: I'll do my best.

THE COURT: I don't have time for

irrelevancies.

Go ahead.

Q What conversations took place that day in your presence with regard to George, Theresa, Josie, David Duffy? What, if anything, did anyone say about Josie, for example?

A The -- George told me that Josie was in a pretty bad state, that her boyfriend had been busted, arrested and that she was extraordinarily upset. So that was for Josie and that was the reason that Josie had come over the night

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Q That's what George told you?

A Yes.

before to stay with them.

Q Did you have any conversation with Josie? A Just -- "Hi." Josie did not speak English and I don't speak Portuguese. So just a question of being introduced, nod and smile.

Q During that day, were there communications between George, Theresa, -- George and Theresa on the one hand and Josie on the other?

A Certainly.

What language were they speaking, to your knowledge?

A Portuguese.

Ω Okay.

Was there anything else you recall on that particular day, anything that George may have said about Josie, Theresa may have said about Josie?

A Nothing that I recall specifically, you know, the early part of the day.

Were there any discussions that -- between you or among you, George and Theresa that led you to going out about -- for a half an hour, whenever you said it was, one o'clock or so?

and pick up her bag.

Or Try to give the Judge that conversation. What

Yes. Just Theresa had asked me to go to the hotel

Try to give the Judge that conversation. What was that about, who said what and your recollection? What did you do?

A Theresa had asked -- I think George was out at that point in time and Theresa said that she wanted to pick up her bag at the hotel. I said that's silly. I can run over. It's raining outside. You've got the baby. Stay here. I'll run to the hotel and I'll be right back.

And I just proceeded -- took a taxicab to the Albert.

She gave me the key to her room. I went up to her hotelroom.

Her luggage was right in the room. Picked up the luggage.

Went downstairs. Paid the hotel for the one day that was due.

(continued on the next page.)

much?

A Under 10 or 11 dollars. I don't recall the exact figure. A small amount.

Approximately how much or, if you know, how

Q What did you do?

A And put the -- had the bellman carry the luggage downstairs for me and put it in a taxi for me and I came right back to my house with the luggage.

As I was taking the luggage into the house -- well,

I took one bag in. As I went inside, Theresa said my -one of my daughters had come by with a Father's Day card

for me, and I saw the card because the following day was

Father's Day. I looked at the card. It was hand-made card.

Q It was a card.

A Went --

Q Move along.

Went back outside to pick up the other bag and there was my wife, mother-in-law and one daughter, who then came inside the house and we --

Q Okay. Now, was David still there at this time, to your knowledge?

A I don't recall seeing David at that point.

Q Let's see what you can tell the Judge about any conversations you may have heard involving George and/or

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David?

Later in the afternoon, David was there. This is the same afternoon, but later in the afternoon. Whether David had gone out or what have you, I don't know, but David was there in the afternoon later, and I was on the telephone, and George and David were sitting discussing Vermont and the -- how easy it was to get across the Vermont border into Canada.

They asked me if I had a map of New England, specifically Vermont, and I threw over a package of maps to them
and just carried on with my business on the telephone, not
getting into the discussion with them, and whatever words
I picked up were just accidentally.

I didn't want to know. I didn't want to have anything to do with their conversation nor get involved with it.

I was taking care of my business and they were taking care of whatever they had to take care of.

Q Did you hear David make a phone call? Do you recall he testified about a phone call? Did you hear anything about that?

A He asked me could he make a call to Vermont. He wanted to speak to a friend in Vermont. I said, "Fine, go right ahead."

There was another phone over where they were and

they just picked up that phone.

Q Did you overhear any portion of David's

conversation?

MR. FRIED: Your Honor, I object to anything David said.

THE COURT: Sustained.

Q What was George doing during that day? Was there anything about his behavior that you noticed?

A In and out. He wasn't using the telephone to call out. He was going out to make calls and going out and meeting people and we just -- George is a very nervous guy.

He was just kind of pacing around and going in and out pretty well most of the day.

O Did you get any impression from his behavior

A Distraught. George was definitely distraught.

THE COURT: I want the question. Did you get the impression?

MR. BELDOCK: Did he get any impression,

did he gain any impression from George's behavior.

THE COURT: Objection sustained.

2 You were telling us about how your mother-inlaw and your daughter and your wife arrived. Was there any communication in your presence regarding George and

Theresa and those people at that time?

A The following day was Father's Day and we all agreed, on my wife's invitation, to come to her house in Grandview on the Hudson, where I could spend the day with my children, and Theresa and George and their baby would come out as well. As we made arrangements to be picked up the following morning.

Q How about Josie? Were any arrangements made about her?

A No, sir. None whatsoever.

Was there any other discussion that you had with George that day, that you can recollect, or with David that day, that you can recollect, regarding anything else? Anything regarding, if I may --

MR. FRIED: Your Honor, I object to the leading of the witness.

THE COURT: I will allow it.

Any question involving lawyers, any information you got from George involving lawyers?

I'd asked when George told me that Josie's boyfriend was busted, I'd asked if he had, in fact, secured adequate legal counsel for her boyfriend, and he said that he had -- that he had retained Sandy Katz or Fred Cohen. I can't remember which he said first. I don't recall. And I didn't

know who they were at that point in time.

Then he mentioned the entire firm's name, which is

Lefcourt, Katz, Brennan and something, and I asked is that Jerry Lefcourt? He said yes, that is Jerry Lefcourt, and I had known -- I knew who Jerry Lefcourt was and I had met Jerry Lefcourt not too long before this time.

Was there anything else that happened at your house in regard to Josie that day?

- Yes. She had a haircut, sir.
 - How did that come about? Q (continued on the next page.)

	Freeman - direct 947
2	A I really don't recall the specifics in terms of who
3	suggested that she have her hair cut or hair done rather the
4	cut. I don't know whether it was Theresa or George that
5	she would feel better if she had her hair done. And I said
6	I have a barber that comes to my house and cuts my hair. It
7	she would like me to call him and have him come over and
8	do her hair for her and said it would be great and I
	called my friend, the barber, and he came over and gave her
0	a hairdo.
1	Q Did there come a time when you said you left
2	the apartment, and that was about 9:30?
3	A Yes, sir.
4	Q Did anything happen before you left in regard

to any of the people we have been discussing?

A Correct. As I was getting ready to leave to go to work, George said, "Would you mind dropping us off?

And he took Josie and we all went out together in a taxicab.

I dropped them off at Fourth Street and Second Avenue. And then proceeded on to the hotel.

After that night have you ever seen Rosalys Rudner again?

No, sir.

You saw George again, correct?

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And Theresa?

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A Yes, sir.

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Q That was on the next day when you were supposed to go off to --

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Yes.

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Q Well, in a sentence or two can you tell us this time sequence, who went, with whom, and when you came back?

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A John came by in the late morning. And George, Theresa, the baby and myself went to Grandview. We spent a delightful day in the country with my children. Had dinner there as well. And came back sometime late that

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evening to my house in the village.

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George, on the way back -- George was concerned --I failed to mention it before -- was concerned about Josie's clothing. Josie was apparently jamming his head, or jamming the radar -- was jamming his head about not having her clothes and --

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THE COURT: Wasn't he with you at Grandview

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THE WITNESS: Yes, he was.

that day?

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THE COURT: Well, did he receive a telephone call from Josie for the clothes --

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THE WITNESS: It was on his mind, sir. He was distraught. He was concerned. And he mentioned his concern to me as we were driving home that evening, that she had been bothering him the previous day about her clothing.

You got back, ultimately, from Grandview? right?

A Right.

Q Where did George and Theresa stay that night?

A In my house.

Q And you stayed there that night?

Yes, sir.

Q The next day, and now we are on to June 18th; what happened?

A I was up relatively early. I was up before Theresa left for Immigration. I believe her meeting was around noon. I believe her meeting was around noon on Monday. I am not positive. I believe it was around noon. And I was up well before she left for Immigration.

George, and I, and the baby were there. And then George went out for a while. I was babysitting with the baby while I was on the telephone. I was just giving the baby a bottle of milk. And George came back and --

Q Let me just cut back. Did --

MR. BELDOCK: I withdraw the word "did."

Q At the time that Theresa left for Immigration, did anything happen? How did she leave?

A I am not sure whether David Duffy came by and picked her up that day or she left alone. I don't recall right now.

I know that David did come by to take her to -- to meet her or take her to Immigration once. I don't recall when it was . It may have been that day. I don't remember specifically or exactly at this point.

Q Now, go on with your story. You were babysitting with the bottle. George goes out. George comes back. Let's get George back in at some time.

A We were sitting chatting. And he one more time brings up -- apparently he had either -- I'm assuming this but I don't know --

Q Let's leave the assumptions aside. Let's

get what people said in substance as quickly as possible -
A He mentioned one more time --

Q -- and as fully as possible.

A He mentioned to me one more time that Josie was very much concerned about her clothing.

I reacted because I can understand how women react
to not having their clothes, having had some experience with
women in my lifetime, and I could empathize with George's

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feeling at that point in time --

Q Excuse me. Just give us the conversation.

A Right.

Q What you said and what he said in substance, the exact wording, if you remember it.

A I said, "Well, what's the problem?"

He said he would like to have -- to get Josie's bags.

"Well, what is your problem? Why don't you just go get the bags?"

He said, "Well, they are at the hotel." And he said, "I don't know if there might be a problem."

"Well, why would there be a problem?"

"Well," he said, "they might be looking for Josie or they might have traced Josie, or through her boyfriend, or this or whatever." It was something -- I don't know -- there was some paranoia. I don't know the specific words that he used. I just don't recall, you know, the conversation specifically except there was concern on his part about just picking up the bags at the hotel.

I said, "Well, why don't you call and see if, in fact, the bags are not up at the hotel and then you can arrange to pick them up or whatever."

He then said, "Well, you are more fluent than I. Would

you mind calling the hotel and seeing if the bags are over there?"

I picked up the telephone and I called the Paramount Hotel and spoke with whoever answered the phone and found that the bags were in the checkroom. There was an amount due to the hotel of some 50 or 60 some odd dollars. And that was it. That was my discussion with the hotel.

I told them I would arrange to have someone pick up the bags. And that was the end of the conversation with the hotel.

I then told George, "Well, why don't you arrange for someone to pick up the bags?"

He said, "I don't know offhand anyone who I can get to go pick up the bags for me."

Some time went down between then and my leaving. And then, as I was about to go out the door I said, "Well, George, if I can find someone at the club who can pick up your bags, I will. I will get the bags for you."

And I started walking out the door. It was just about closed and I reopened the door and said, "George, what's in the bags? Aside from clothing is there anything else in the bags?"

And he said, "There might be a very, very small amount of coke in the bag."

I said, "What do you mean by a very, very small amount of coke?"

He said there might be 3 grams of coke, maybe as much as 5, but I think there is only about 3 grams of coke that Josie had.

And I said, "Are you concerned about the coke coming back with the bags if I do find someone to pick the bags up?"

He said that the coke is the least -- you know, he said, that I am not concerned at all about the coke. I just want the clothes for Josie.

I said, "I will let you know what I can do."

I then went to the hotel. That must have been about 4 or 5 in the afternoon.

When I got to the hotel I called -- I was supposed to have met John at the hotel -- this perhaps might have been even earlier -- this might have been around 3 o'clock. I am not sure.

John wasn't at the hotel yet -- John Addison -- I called John at home and asked him for Brad Stranger's hotel number because I thought Brad and Salina would be kind enough to pick up the bags for me.

He gave me the phone number.

I then called and spoke to Brad's girlfriend. They were still asleep in the afternoon, and they said they would

get over to the hotel as quickly as possible because I told them I had an errand for them to run for me.

while waiting -- I was busy working at that time -- and then I stopped off for a bite to eat. I went into the coffee shop during which time Kim Ornitz came by with his friend Jock.

- Q Had you ever met Jock before?
- A No, sir. I had never met Jock before.

(continued on the next page.)

Q Go on.

A I was surprised to see Kim. It was unexpected -- and an actual unexpected pleasure -- I hadn't seen him in a few days, since the opening night. And he dropped by to say hi, and he said he wanted to show Jock the club.

I was busy doing -- I am not sure what work I had to do -- as a matter of fact, I didn't even have the keys to the club downstairs. The club was locked up. And Addison had the keys. And Addison hadn't arrived yet. So I couldn't give them a tour of the club. And at that point --

Q Tell us what it was that you did? What was the conversation? What took place?

A So -- I am trying to recall specifically -- I said, "Gee, Kim, it is -- "I have got -- "I have something that I wanted to have done, but unfortunately, you can't do it for me." I was either talking to Kim alone --

Q Who was present?

A I think it was just Kim and I at this point.

I said that I wanted to chat with him for a moment.

And I said, "Jock, will you please excuse us," or Kim said to Jock, "Please excuse us."

And Kim and I went into the lobby and I told Kim what my problem was -- not mine but George's problem, to

pick up the bags at the hotel.

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anyway.

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I said that I would have had him do it, but because he had been busted there was no way in the world he could do it for me just in the event that there was a problem. And that someone else was coming to take care of it for me

I think he mentioned at that point that Jock had been looking to score some blow -- this is the vernacular that he used -- and that perhaps we should ask Jock if he would pick up the bags.

I said that I don't know the chap. I said it is entirely, you know, -- what do you think --

Well, let's speak to him and see if he is interested in going over to pick up the bags. Especially if you are concerned about the coke that is in the bags he might very well rather enjoy going to get the bags.

So he called Jock out into the lobby or we walked back into the coffee shop and brought Jock back into the lobby and we sat and chatted with Jock and outlined the situation to him -- and shall I be specific at this point?

Q Yes. Say what you said and what he said.

Kim said to Jock, words to the effect, that there are some bags at a hotel that belong to some girl that she wants. There might be a small quantity of coke in the bags.

 And if he would be interested in going to the Paramount

Hotel and retrieving the bags, the coke that would be in the

bags would be shared among them -- or among us, I should

have said.

Q What did Jock say and what did you say to him?
A I'm just trying to get it straight.

I then said -- Jock had some question. He said, "Well, why? What is the problem?"

I said, "Well, there is a problem. The girl who the bags belong to, her boyfriend got busted and she is concerned about their looking, or the possibility of their looking for her as well," or words to that effect -- I don't recall quite exactly what I did say -- let me see, and maybe I can refresh my recollection.

No, here is what I think I said:

"The bag belongs to a girl whose boyfriend got busted. She is very distraught. She is very messed up right now. And she is not in a position to pick up her bags herself. If you want to pick up the bags, fine. Whatever coke is in there, split it up.

"There is a possibility, a very outside possibility that they might be watched for one or two reasons, because when she didn't come back to the hotel -- she hadn't been back to the hotel for a few days, and it is conceivable

that the hotel could have gone through the bags and found coke in the bags, and therefore, alerted the police to watch, or just on the outside possibility that in dealing with the problem that her boyfriend was in, had tracked down the bags.

"So there was a possibility that the bags could be watched. And there it is."

And if, God forbid, that is the case, I then gave him some stupid story to say to the police in the event that they were picked up, which was that some --

Q What did you tell him?

A That someone asked him to pick up some bags, gave him the amount of money necessary to pay the hotel bill, and was going to give him a further \$100 when he brought the bags back to the hotel, to the Diplomat Hotel.

Q What did Jock say to all this?

A Fine and dandy. He liked the idea very much. He was delighted.

We then walked outside --

Q What happened then?

A I said, "Jock, if it hassles your head in any way, shape or form, if there is any concern whatsoever, then don't bother to do it because it isn't necessary. There is someone else on the way over who will be delighted to do

it. And there is just no reason for you to hassle yourself about it."

He said, "No, it is fine. I would love to get it."

I said, "Go ahead, do your thing."

Q Did you do anything with regard to him at that time before he left?

A Oh --

Q Did you give him anything?

A I gave him three 20 dollar bills to pay the hotel bill.

Q I take it you gave him the information about the hotelroom?

I don't believe I gave him the name, sir. I don't recall having given him the name. I think it was just a question of paying the hotel bill for room number such and such and picking up the bags from room number such and such. I don't recall having given him the name of the lady in question.

THE COURT: Well, you paid this out of
your own money? You didn't get it from George?
THE WITNESS: I think I did get it from
George before I left, sir.

It wouldn't have made any difference. I would have paid it out of my pocket and got it

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back from George later. But I am pretty sure that George gave me the money because we found what the hotel bill was on the telephone before I left the house.

I just don't recall now whether he gave me the money. But I would have gotten it back from him.

- Q Okay. What happened next?
- A Kim came back to the hotel.
 - Q You saw them leave?
- A They both left. I went back.
 - Q You went back inside?
- A I went back inside to do some work.
 - Q There came a time when Kim came back?
- A Yes.
 - Q About how much time had passed?
- A 15 to 20 minutes.
 - Q Where were you when he arrived?
- A It may have been longer. It may have been a half hour, sir.
 - Q Where were you when he arrived?
- A I think I was somewhere in the lobby walking either to my office or back out of my office.
 - Q Did you have a conversation?

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What did he say and what did you say?

Kim said that he thinks someone was watching Jock leaving the hotel. That Jock was, in fact, he believed, being followed. I said, "Okay. You get home right now. Pffft. Go home."

And I went back to work.

Perhaps another half hour passed and there was a knock at my office door. I went up to the door. And it is locked. So I had to turn the cylinder lock to open the door. The door opens outwards. And there is Jock. I said, "Jock, you had better split. Just jump into the subway -- excuse me, the first thing I said was, "There is no Jim here" or "Jim aint here," words to that effect.

Then I whispered to Jock at the door, I said, loudly, "Jim aint here."

Then I whispered to Jock that I believe -- we believe he was followed, or I believe that he was being followed. That he should grab the bags and jump in the subway and just take off.

Than I closed the door and west back to my desk, and then sat down.

What happened next?

And, you know, the florist came by. He was doing some

floral work for the club. It must have been about 5, 10, maybe 15 minutes later, and I was sitting in the office. At that point John Addison -- the florist knocked on the door. We let him in. And then John, I, and the florist, proceeded to the elevator through the lobby of the hotel to go up to the roof --

Q Did you observe anything as you went through the lobby?

A As we went through the lobby, John Addison pointed out a pair of Gucci bags sitting in front of the registration desk.

Q Can you identify those bags?

A Yes, sir, two beige bags.

(continued on the next page.)

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Government Exhibit 36 and 37, for the record. Q

THE COURT: Is that right?

THE WITNESS: Yes, sir.

He pointed out the bags. Did you observe any-Q thing else in the lobby?

Oh, yes, I noticed two heavies sitting on a sofa not too far from my office door, two of Mr. Levine's associates, within the lobby.

And I was preceded right to the elevator by two gentlemen, up to the roof. And when I went up to the roof with John and the florist, I let John and the florist tend to their -the floral decoration. I went to the office up on the roof, called my house.

George answered the phone. I said, "Split," hung up the telephone, came back downstairs when we got through the floral decorations at the roof, went back down the elevator to the basement, where the other club was.

And as we got off the elevator, it was Mr. Levine and a number of his associates and Jock. He said he'd like to speak with me for a moment.

I said, "Please excuse me for a moment while we take of our business." We went into the club, did the floral arrangements in the club, came back on the elevator, and I said, "Let's go up to my office, we can chat up there."

Freeman - direct/Beldock

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He then asked me, Mr. Levine, said, "Do you know this chap, do you know who this fellow is?"

I said, "No, I've never seen him before in my life, sir."

Q Was that true?

No, it wasn't true.

I said, "Why?"

And he said, -- Well, he said that, "Jock said that you, Mr. Freeman, had sent him over to the Paramount Hotel to pick up some bags and bring them back here to you.

I said, "Well, what's the problem?" I said, "What's in the bags?"

And I don't remember, I am trying to recall the number exactly that Mr. Levine or one of his associates said there were, either a number of kis of coke in the bags, or there were ten kis of coke in the bags. It was either a number of, or ten kis.

This, to say the least, put me into a total state of shock, the possibility that there were ten ki of coke in the -in Josie's bag, which threw me for an entire loop. I hardly even know what I said at that point in time --

- Well, let's see what they asked you --
- (continuing) to --A

THE COURT: At this point, you understood that Josie -- You knew it was Josie involved?

Freeman - direct/Beldock

THE WITNESS: No, I didn't know that she was involved.

THE COURT: Her boy friend was involved?

THE WITNESS: But involved in what, I

didn't know.

THE COURT: You knew he was busted?

THE WITNESS: I knew he was busted.

THE COURT: They never told you why?

THE WITNESS: No.

THE COURT: And you called George and told George to split?

THE WITNESS: Right.

When I saw the -- the Agents sitting in the lobby, I had already known that -- that Jock had been followed. And I saw the Agents sitting in the lobby as I went across the lobby to get upstairs to the club, and I said, "Well, I don't know what it is, but it's something a lot heavier than anything that I conceived of prior to that point in time."

THE COURT: So then you thought maybe it was George involved?

THE WITNESS: I can tell you how I thought,

if you're interested in knowing how my head was

Freeman - direct/Beldock

working at that time.

THE COURT: Yes.

things running through my head: One was, if it is something this heavy and I'm going to have to end up back down in my house with these Agents, I certainly don't want to find George at my house, because obviously George might be involved in something that I don't know anything about, but it's heavy enough to bring these Agents back with the bags.

THE COURT: Now, this is before you say

Agent Levine told you there were two kilos, or

ten kilos?

THE WITNESS: This is before then. Yes, it is.

THE COURT: You called George and told him to split?

THE WITNESS: Right.

THE COURT: At that point, you didn't know whether it was heavy or not, did you?

THE WITNESS: When I saw -- Wait, I saw -- When I saw the Agents sitting in the -- in the lobby of the hotel, when Kim had already told me

Freeman - direct/Beldock

that Jock was being followed -- I mean, why should he be followed? I mean, if it isn't heavy, there is no reason for the Agents to be in my -- You know,

THE COURT: If you knew that he was being watched, why should it surprise you that he was being followed? Isn't that what you told Jock?

THE WITNESS: No, I said there is a possibility.

THE COURT: That's what I mean.

THE WITNESS: An outside -- It was so far removed from reality. I said that to be perfectly fair to Jock, "There is a possibility that the bags could be watched," you know, but it was completely illogical to me that the bags would be watched. I could see no reason, nor could George give me any reason, why the bags should be watched.

No one in the world knew that this girl was staying at that hotel. His friend had been busted at the Albert Hotel, he told. That much I did know at that point in time, I believe.

But she had never -- She wasn't there, she was at the Paramount Hotel. There was no reason that was given me, logical or otherwise, why those

Freeman - direct/Beldock

bags should really have been watched.

I still don't know now why --

THE COURT: You said nothing more when you called George than "Split," just the one word, and hung up?

THE WITNESS: Yes, sir.

THE COURT: Nothing more?

THE WITNESS: No, no. Unless I said -I might have said, "It's Stan; split." You
know.

Q Incidentally, this information that you are just giving the Judge, have you ever advised the Government concerning this information?

A Yes, sir.

THE COURT: Advised whom?

MR. BELDOCK: The Government.

THE WITNESS: Yes, we sat -- I told Mr.

Fried and Mr. --

THE COURT: Of course, I think that evidence is inadmissible, but I'll take it and I'll weigh it in the proper light. It may be that because he said it before, he feels he's stuck with it now, and has to repeat it.

MR. BELDOCK: No, your Honor, those are not

Freeman - direct/Beldock

THE COURT: Well. you're say

THE COURT: Well, you're saying it's not the circumstance, and you don't know at this point. You can only tell --

MR. BELDOCK: I won't argue with your Honor, but I'm sure that --

THE COURT: But you place a lot of emphasis on what the defendant did before, and what he told the United States Attorney before and after he saw his lawyer.

MR. BELDOCK: Yes, Judge, I just -- May I just say this, your Honor --

THE COURT: I place no emphasis on that.

It means nothing whatever to me.

MR. BELDOCK: I understand that. My point, your Honor, is simply this: That the information we are now discussing, and much of the information, came only through our lips, and the Government had no other source of information.

THE COURT: What does that mean?

MR. BELDOCK: Well, your Honor --

THE COURT: Does that prove that he wants to uncover the crime? Is that what you're trying to tell me, that he's trying to cooperate with the

Freeman - direct/Beldock

Government?

MR. BELDOCK: I tell you, we were trying to cooperate with the Government at that time.

THE COURT: It has nothing to do with the case.

MR. BELDOCK: It may not. I'm just trying to put it in its context.

THE COURT: I don't know what the context is. It keeps bringing into this case everything about what Mr. Stanton Freeman told Mr. Levine when he was interviewed.

MR. BELDOCK: Mr. Silvestro.

THE COURT: And then when he told Mr. Fried when he was interviewed. I referred you to Wigmore on that, and I thought it was pretty clear that prior consistent statements were not admissible except when there was a charge that there was a recent fabrication of a story. That's not the claim here.

MR. BELDOCK: Let's go on, Mr. Freeman, then.

You were telling the Court what happened at the time that Mr. Levine and the Agents came to question you, and let's see what other questions they asked you, and what other answers you gave.

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1	9 Freeman - direct/Beldock
2	They had asked you about Jock Davis?
3	A Yes, sir.
4	Q And you said untruthfully that you did not know
5	him?
6	A Right.
7	Q What else did they ask you?
8	MR. FRIED: Your Honor, I repeat the ob-
9	jection that I have made. This is again a self-
10	serving statement. The witness has just testified
11	to his version of the entire sequence of events,
12	and now to testify to what he told the Agents
13	THE COURT: May I have the question, Mr.
14	Lewis.
15	MR. BELDOCK: No, this is in the Hotel
16	Diplomat.
17	THE COURT: May I have the question?
18	MR. FRIED: I'm sorry, this is in the
19	Hotel Diplomat?
20	MR. BELDOCK: Yes, this is in the sequence
21	of the story that we are up to.
22	Q Would you please go on and tell to the best of
23	your recollection what Mr. Levine or any other Agent asked or
24	said to you at that time, and what you said in response.
25	You've heard Mr. Levine testify here, so

Freeman - direct/Beldock

A I know I've heard him testify. I'm just trying to find out what was truthful, you know, in my own mind, what happened in actual fact, and what didn't happen.

Q Tell us the best you recall.

A Okay. I think he asked me if I had ever seen the bags before, and I said, No, that I hadn't seen the bags before. I said I hadn't seen Jock before, but I certainly hadn't seen the bags before, regardless.

I don't recall too much of my own personal recollection right now, it's very hard for me to recall too many of the things that happened during that interview with Mr. Levine in my office.

(continued on next page.)

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Freeman - direct

Q Let me ask you a question --

A I recall --

Q -- did Mr. Levine -- All right, you say you recall?

A Yes. You know, I -- I recall what happened. He -he took me up for a cup of coffee in the coffee shop, and
immediately following the meeting in my office, and he
said that "our main concern is that we are trying to locate
this Rosalys Rudner girl," and he showed me some photographs
"and if you know any information whatsoever where we can
find her or locate her or what-have-you, that is our major
concern today. And we are not concerned really about
anything else."

And I asked, I said to Mr. Levine, "Do you have a secan additional set of photographs or a copy of these photographs of Rosalys Rudner, because if you do, would you
give me a copy; there is a possibility that I might be able
to assist you in finding Miss Rudner."

He said --

Q But in fact --

A Excuse me?

Q Go on.

A He then gave me his card. He said, "I can't give you a set of photographs now." He thought about it for a minute.

He says, "No," he said, "I can't give you the photographs; here is my card; if you come up with any information, day or night, call me."

O Now, did he ask you whether you recognized the person in the photographs?

A He said, "Do you recognize the person in the photographs?

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And what did you say?

I said no. I said I didn't.

And the truth was that you --

I could tell that it was she. I could tell that it was Josie. I'd only seen her for a while and the photographs were not that great, but the resemblance certainly was there.

Q Now, did he ask you -- I'm not trying to lead you, but did he ask you whether you knew any Brazilians in this conversation?

I said, "I don't know any Brazilians."

Q And the truth was that you knew Brazilians?

A Certainly.

Including George and Theresa?

Exactly, exactly.

At that point in time I felt -- my head just said that that was what I should say, that I didn't want to be involved, have anything to do with it. I was scared to death, I didn't want to do anything.

Mr. Levine frightened me to death. I think he's a very intimidating individual, sir. I would not like to meet him in a dark alley, let alone a well lighted room.

MR. FRIED: I move to strike it out.

THE COURT: Stricken.

MR. BELDOCK: Yes, it should be stricken, "In a dark alley."

Q Did Mr. Levine ask you whether you knew anyone at the Hotel Albert?

A Something to that effect. I think he did.

Q And what did you tell him?

A I think I said I knew Miss Feldman at the Hotel Albert.

Q Who was Miss Feldman?

A She was a lady who has been working there for many years. And I used to put rock groups in the Hotel Albert, and she was the lady I was working with.

Q Did he ask you if you knew anybody else at the Hotel Albert?

A I told him no.

Q Was that true?

At that point there wasn't anybody I knew staying at the hotel. George and Theresa had been staying at my house, they hadn't been staying at the Albert.

He asked me if I knew anyone staying at the Albert then, and it may have been a minute point in fact, but I didn't know anyone then at that time.

THE COURT: How long had George and Theresa been staying at the Albert?

THE WITNESS: I don't know, sir. They had been staying at my house since Friday.

MR. BELDOCK: May I produce, your Honor -THE COURT: I just wanted to know whether
Mr. Fried --

MR. FRIED: Your Honor, it is in evidence,
Government's exhibit number -- defendant's
exhibit D, which was provided to the defendant
by the Government, is the hotel bill for the
Costas, and it indicates an arrival date of
June 9, 1973.

MR. BELDOCK: And with Mr. Fried's permission, he has --

MR. FRIED: I have no objection.

MR. BELDOCK: (continuing) -- consented to the introduction of the registration card that accompanies that bill from the hotel records, showing the name Theresa Costa, the room number, the rate, persons, the number of days, baggage and deposit.

THE CLERK: So marked as defendant's

exhibit D-1 in evidence.

(So marked.)

Q Did Mr. Levine ask you whether you had seen
Kim Ornitz or knew Kim Ornitz?

A Yes, and I said that I had, that I did know Kim

Ornitz, and I think I said that I had seen him that afternoon.

I -- I don't recall right now, but I think that's what I said to him.

Now, after the agents left, was there anything else that happened that day in regard to George and Theresa, talking about June 18th?

Incidentally, what did you do after the agents left? Did you stay at the hotel, did you leave the hotel, or what?

A No, I stayed at the hotel for just a few moments.

I made a few phone calls. I made a call to Billy London.

Q That is the attorney sitting here in court?
Right.

Q He is what relationship to you?

A He was handling -- he was the attorney that was handling a divorce for me, sir, my divorce action at that time.

Now let me see whether you recall anything else that happened at the Diplomat any time during that day or that night in regard to George or Theresa?

A Well, later that night -- yes, I do -- sometime

"

later that night I was up on the roof, and the telephone was ringing, and I went over and I picked up the telephone, and it was Theresa from another phone, and Theresa said cryptically, "I left some records at the house; may I go by and pick up my records?"

And I said somethin, just as cryptically back: "No, you can't go back to the house to pick up the records because my wife found out all about you and I don't want you back in the house."

At that particular time I thought my phones were tapped, my head is tapped and everything is tapped, and I did not want Theresa anywhere near my house, nor George, nor anyone else. And that was the last time I had spoken with Theresa.

(continued on the next page.)

WL:pc take 4/3 Q And when were you arrested?

A On Tuesday afternoon at about -- the 19th, Tuesday the 19th at about, I think it was, a quarter of 6 or quarter after 6 in the evening on West 4th 3treet, around the corner from my house.

Q You were taken down to Varrick Street?

A Yes, sir.

Q And you had that briefcase with you that was testified to on the suppression hearing, is that right?

A Yes, Mr. Levine, when I was arrested, suggested I take off all my jewelry. And I was with a friend of mine, another attorney called Richard Golub, and Mr. Levine said, "Any jewelry you have on or any money you have on you or anything else, give to Mr. Golub, give to your friend, because they'll take it away from you in jail and you won't have it."

And I handed my briefcase to Mr. Golub as well, and Mr. Levine said, "No, I want that." He went over, took the briefcase back from Mr. Golub and they threw me in the car and we went off.

Now, you had all these papers in your briefcase that have been introduced into evidence,, as well as the stack of papers that were marked for identification -- right?

Yes.

papers, a mixture of them?

Q What -- what kind of papers -- withdrawn.
I mean were these business papers, private

A mixture, sir, of business and private papers.

Varrick Street and there were questions and answers, discussions involving Mr. Levine. Did Mr. Levine, as he testified, question you about the piece of paper with George Moro's number on it, or George's number, the one that's in evidence?

A Perhaps I should say this: from the moment that Mr. Levine picked me up, Mr. Levine began questioning me and threatening me, from that point. I told Mr. Levine repeatedly that until my lawyer met us, wherever the hell it was that we were going, I had nothing whatsoever to say.

Including Mr. Levine pulling me aside prior to walking in the office at Varrick Street, saying "Preeman, you'll get 35 years for this if it's the last thing that I do, and I'll see that it happens to you," and everything else, and every other conceivable kind of threat, including somewhat physical as well as very loud and vociferous.

I said to him, "When my attorney gets here, that's

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when we'll speak, Mr. Levine, nothing until then."

When we arrived at Varrick Street and Mr. Levine did persist in trying to speak with me, and asking me any number of questions, and was riffling --

> MR. FRIED: Your Honor, at this time --THEWITNESS: Well --

MR. FRIED: (continuing) -- I'd like to find out whether Mr. Beldock is bringing this out for the purpose of attacking the voluntariness of the statement. As I understand, that's already been ruled --

MR. BELDOCK: No.

THE WITNESS: No, I'm just telling him how I feel, Mr. Fried, if I may.

THE COURT: The fact is the trier of the facts sitting in that capacity here also has the right to hear all the circumstances surrounding the admission, so it certainly is admissible.

MR. FRIED: I understand. I was just interested in knowing whether he was attacking the original ruling.

MR. BELDOCK: No, I'm not.

THE WITNESS: I'd also like to get --

go into the minute things.

When they first picked me up, Mr. Levine took my briefcase in the front seat, and his associate -- I think it was Mr. King -- I don't recall his name -- they were riffling my briefcase. I pulled out my wallet, and after they had gone through my wallet they said, "Is there anything here that you want or is there anything here of value?"

I said, "There is a hundred dollar bill folded up in my wallet, and that's the only thing that's of value aside from my personal credit cards and birth certificates, and what have you."

And they said, "Well, you'd better check it and make sure the hundred dollar bill is in there or isn't there," and they handed my wallet back after they had been through it. And I usually keep a hundred dollar bill folded up in a little part of my wallet, but it wasn't there.

So I don't know for what reason it wasn't there or why it wasn't there, but it wasn't there.

And then we go back up to Varrick Street, we go to Varrick Street for the first time, we go up to be processed, and --

I'd like to bring you, Mr. Freeman, to conversations as quickly as we can get to them. I'm thinking particularly here of any conversations that Mr. Levine testified to and that you heard here in the courtroom.

Can we just go through that, or if it didn't happen that way, then you'll have to tell it your own way, but I'd like to get us through in five minutes.

For example, did he ask you about the paper that had George's name in it, at a certain point?

A Yes, he did.

Q What did he say to you, what did you say to him?

A I said, "When my attorney gets here I trust he'll clear this entire matter up and save you a great deal of time on chasing down dead end roads."

Then he pulled out another piece of paper with Josie's name on it and he asked the same question, "who is this?"

And I said, "As soon as my lawyer gets here I'll be delighted to tell you, and maybe save you a lot of time."

"Do you think it's worthwhile for us to bring

Mr. Fried down?"

"Yes, I think it is very worthwhile to bring the U.S. Attorney down. I think if my attorney can take the time to come down, perhaps the U.S. Attorney can take the time to come down, and perhaps we can arrive at a situation that will help to resolve this situation." And eventually they both did come down.

(continued on the next page.)

Freeman - Beldock

DIRECT EXAMINATION

BY MR. BELDOCK: (Cont.)

All right. Mr. Levine testified to your having said something to him to the effect that it all could be explained, etc.. What, if anything, did you say in that regard?

A My -- when my attorney arrived, sir?

O Whenever.

A I told him that -- why Theresa's anme was on a piece of paper and why George's name was on a piece of paper.

Q What did you say?

I said the reason that Josie's name was on it, because of her immigration proble, I had written the name down, called a friend to arrange an attorney for her immigration situation. And I had George's number because George was the one who called and was a friend of mine, and that is why I had the number written on the piece of paper.

O Do you recall anything else you told him in that regard?

No, I think that I discussed it with Mr. London. We discussed prior to speaking to Mr. Levine and Mr. Fried any further what we wanted to say at that point in time until we had taken on a -- an attorney who was experienced in criminal matters.

Mr. Silvestro's testimony.

Do you recall Mr. Silvestro testified/the interview at the United States Attorney's Office on August 16th.

Just one question. When you told your story to the Government that day in all of our presences, what did you say about the point in time when you called your house from the Hotel Diplomat and told George to split? What did you say that occurred?

Mell, exactly what I just said now. When I went upstairs to -- with the florist and John Addison I went into the office and called my house then, prior to having met Mr. Levine.

MR. BELDOCK: We have no further questions.

THE COURT: Mr. Fried.

MR. FRIED: Yes, your Honor.

CROSS-EXAMINATION

BY MR. FRIED:

Q Mr. Freeman, would you tell us again when it was that you first met George Morao?

A To the best of my recollection, it's sometime after the Rolling Stones Concert about a year and a half ago.

It's after or just before.

2 And you stated that about a month after that you met his wife Theresa; is that correct, on your direct

Preeman - cross

examination? Do I have the time sequence right? I met George first and I met his wife perhaps a A month, perhaps a month and a half afterwards. I don't recall specifically.

Then after you knew the two of them and knew them to be living together or husband and wife, did you have frequent occasion to meet with them?

I don't know at what point we started developing a social relationship, whether it was four or five or six months after we had first met them or --

Then when you developed a social relationship how frequent --

> THE COURT: Excuse me. Under what circumstances did you meet, who introduced you to him?

THE WITNESS: A young lade who was a friend of mine who had -- was head of Citizens for Clean Air, which is an association or organization that I had worked with trying to turn St. Mark's Place into a mall. This was during the Electric Circus days or the final Electric Circus days.

And she had known George, and they were having lunch or something or whatever heck it was one day and George had mentioned to her that

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Freeman - cross

he was interested in promoting the Rolling Stones in Sao Paulo, or doing a concert with the Rolling Stones and she said, well, you should meet my friend Stan Freeman and she brought him over to my house to meet me one day.

And that's how I met George.

BY MR. FRIED:

- After this social relationship developed how frequently did you meet George, did you see George and his wife, or individually?
- A It really fluctuated. It might have been once a month or perhaps I would see them twice, you know, in that month. It was not a -- a routine kind of situation, Mr. Fried.
- Did you go out with them on a social basis?

 No we went out several times. We went to dinner with them a couple of times, we went to dinner at their house, they had dinner at our house several times.

We went to at least two concerts together, perhaps three concerts.

- O Did George ever come to your house by himself?
- 25 A Yes, he did.

	Preeman - cross		
2	O Did Theresa ever come to your house by		
3	herself?		
4	A Would you repeat that question?		
5	O Did his wife Theresa or Terry ever come to		
6	your house by him by themselves or did they always		
7	come together?		
8	No, George came separately frequently by himself.		
9	I think Theresa may have dropped by a few times on her		
10	own in the afternoon and seen Joy.		
11	Was George in the habit of dropping by your		
12	house by himself for short periods of time, a half hour or		
13	an hour?		
14	A Not without phoning first.		
15	? Excuse me?		
16	A Not without phoning.		
17	O He would telephone you?		
18	A Yes.		
19	? Was your relationship ever of a business		
20	nature?		
21	A You mean did I purchase cocaine, is that what you		
22	mean?		
23	Q No, I mean in your business as a musician or		
24	as a promoter of musicians.		
5	A :10.		

Preeman - cross

had said to me that he had been commissioned to do a specific job at a specific time.

Like that dance thing at the Free School. He was commissioned by them to -- to shoot it.

THE COURT: Did he get paid?

THE WITNESS: I have no idea, sir.

THE COURT: So --

THE WITNESS: I really don't know. You are asking me a question which I can't give you a fair answer.

THE COURT: I just want you to tell me what you mean, nothing else.

THE WITNESS: No, I don't kn /, sir. I don't know.

THE COURT: And what other business was George in? You indicated he knew a lot about cooking. Did he ever work?

THE WITNESS: He talked.

THE COURT: Or work as a chef or did he ever earn any money out of it?

THE WITNESS: I am sorry, sir, I don't know. He was a very fine amateur chef. I know, I have eaten his food. I have no knowledge of him ever working in a restaurant.

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Freeman - cross

THE COURT: What other legitimate occupation do you know that George pursued, anything that you can think of?

THE WITNESS: Nothing that I can think of, sir. I am sorry.

THE COURT: You have seen him on many occasions?

THE WITNESS: I have seen him a number of times.

THE COURT: Didn't you ever discuss jobs or what he was daing?

THE WITNESS: I discussed his film making with him; he told me that he had run a newspaper in South America, that he had the first student newspaper in South America.

He said that he had produced some concerts in South America. But I knew of nothing that he was doing presently in that area in the United States. I --

THE COURT: Well, when you thought
you were going to get the \$60 back, where did
you think George was going to get it from, that
you said you had used to pay the bill at the
Hotel Paramount?

Freeman - cross

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Yes, yes.

You had brought them food for their baby?

Yes, I brought food, too. We went to Carlos' on A

THE WITNESS: George had money, sir.

THE COURT: He had money?

THE WITNESS: Yes.

I knew -- I mean I know that George -I know that George had some money and I know that Theresa had money -- my understanding was that Theresa came from a wealthy family, that her father was, I believe, president of the Banco de Brazil.

CROSS-EXAMINATION

BY MR. FRIED: (Cont.)

During this time that you had this relationship as a friend of George and Terry, had you been asked by them to do them any favors of any kind?

What -- can you give me an example of what you mean, I mean ---

Well, did you ever pick up suitcases for them Q before?

Q Had you ever brought them foods for their

No, sir.

baby?

A

Freeman - cross

So this is the first time that George requested of you a favor; is that correct, a substantial favor?

A I don't -- well, in retrospect this is certainly a very substantial favor. In retrospect.

O In retrospect?

A In retrospect.

At the time you didn't consider this to be special?

At that point in time you know, I didn't think this was a major -- I had no idea as to the -- the size of favor it turned out to be. I had no idea. It wasn't a major thing for me, you know, to ask a friend, if you find somebody to go to pick up some luggage for me.

That's not that heavy a favor to ask of someone. Only in retrospect when you see it was about a \$50,000 favor, at least.

O Mr. Freeman, at any time before you went to pick up that luggage did you know that Josie, as you described her boyfriend or a friend of George's had been busted at the Hotel Albert?

A Excuse me, would you repeat your question?

Before going to pick -- before you left your house on June 18th --

A Yes.

Freeman - cross

O -- in the afternoon, had you known that somebody involved with George had been busted or arrested at the Albert Hotel?

I know that her boyfriend had been busted. I am not a hundred percent sure whether I -- I knew then that he had in fact been busted at the Albert but I think so. I think I did know because I think during the -- the -- the exercise with the Paramount on the phone and trying to see why there would be a problem that question either came into my head or was discussed with George, that if in fact her boyfriend had been busted at the Albert, why would there be a problem with her bags at the Paramount.

Q But this was --

-- and when -- well I am sorry.

A You know.

with the substantiality of this particular -- this didn't seem to you to be an unusual request now that you knew that the man had been arrested at the Albert Hotel?

A Yes, but this is his girlfriend. This isn't the man that we're talking about. He didn't ask me to pick up the man's bag. He asked me if I could arrange to pick up the clothes for his girl friend. It had never entered my head

THE COURT: Did George tell you how he learned that the boy friend was busted?

Freeman - cross

GR flws.

THE WITHESS: No, sir -- I never asked

for the specifics.

(Continued next page.)

GR:GA T5R1 PM

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Freeman - cross/Fried

- Q Mr. Freeman, after Mr. Crnitz returned to the hotel on the 18th and told you that he believed somebody had been following Mr. Davis, could you repeat again for us what you did?
- A I told him to go home.
 - Q Is that all you did?
- A That I recall.
 - Q Did you go outside of the hotel with Kim?
- A I might very well have, yes. We might have gone outside to see if Jock was coming.
- Q So you went out of the hotel. Do you recall where you went?
- A I think we walked down to Seventh Avenue, which is just, you know, half a block down. Either Broadway or Seventh, to see if Kim had --
- Q During this period of relationship with George, had he ever stayed at your house before?
- A Which period are you speaking of?
- Of the entire period of your relationship?

 Since you've known him? Has he ever stayed at your house before?
- A I don't recall whether he had in fact or not.
- Q When Kim Ornitz came to the hotel on June 18 with Jock Davis, when Kim Ornitz and Jock Davis came to the

1	2 Freeman - cross/Fried		
2	hotel on June 18, the Hotel Diplomat, did you tell Kim Ornitz		
3	that the girl whose bags you wanted him to pick up had left		
4	the hotel without paying the bill, and that that was the reas		
5	you wanted the bags picked up?		
6	A No. I You're asking two question there, Mr. Fried.		
7	Let me		
8	Q No. Let me ask you the question again, Mr.		
9	Preeman.		
10	A All right. Would you ask one at a time, please?		
11	Q I will.		
12	Did you tell Kim Ornitz when he came to the Hotel		
13	Diplomat with Jock Davis that the girl's bags that were left		
14	in Let me rephrase it.		
15	That the girl whose bags you wanted picked up was a gir		
16	who had run out of the hotel, or left the hotel without paying		
17	her hotel bill?		
18	A I had said that her hotel bill had not been paid.		
19	Q Did you say that that was the reason that you		
20	wanted the bags picked up?		
21	A Did I say? No, I didn't say that.		
22	Q Now, concerning the witness who testified here,		
23	Mark Etra, do you know Mr. Etra?		
24	A I didn't recognize him. His name is in my telephone		
25	book, and I'll certainly accept the fact that I did meet him,		

1	14	Freeman - cross/Fried	
2		Q Just so I understand, that I don't misunderstand	
3	your a	nswer, you recognized Mr. Etra when he was here, he looked	
4	famili	ar, but you didn't recall	
5	A	That's not what I said. I said I didn't recognize Mr.	
6	Etra.		
7		Q You recall meeting him?	
8	A	I recall meeting a Mr. Etra. I recall his story.	
9		Q You recall his story?	
10	A	Yes, I do.	
11		Q As he testified to?	
12	A	Within Give or take, you know, 50 percent.	
13		Q I'd like to show you Government Exhibit 4-C in	
14	evidence, and ask you if you can tell us what that is?		
15	A	It's a page of my telephone directory, and there is	
16	Mark E	tra's name.	
17		Q is there a mark next to Mark Etra's name?	
18	A	There is a mark next to Mark Etra's name, a large mark,	
19	and th	ere is no other mark on the page.	
20		Were there any other marks on pages in the book? In my	
21	entire	telephone book? Do you have my book here? May I see	
22	my tel	ephone book?	
23		Q Yes, you certainly may. I show you Exhibit	
24	A	No. May I see my entire address book, please?	
25		Q 4-D, and	

1	5 Freeman - cross/Fried
2	A Let me see these pages, too, Mr. Fried.
3	THE COURT: Has that been marked?
4	MR. FRIED: I will mark it, your Honor.
5	THE COURT: All right. I understand the
6	pages in evidence came out of a book now marked
7	Government's Exhibit
8	MR. FRIED: That's correct, your Honor.
9	THE COURT: What? 100 and
10	THE CLERK: Not that high yet.
11	THE COURT: What is it?
12	MR. FRIED: 56.
13	THE CLERK: 56.
14	THE COURT: What is it?
15	THE CLERK: 56.
16	THE COURT: 56 for identification.
17	THE CLERK: So marked.
18	(Book so marked as Government's Exhibit 5
19	for identification.)
20	MR. FRIED: I offer this as Government's
21	Exhibit 56 for identification.
22	THE COURT: Any objection, Mr. Beldock?
23	MR. BELDOCK: No objection.
24	THE COURT: Let it be marked.
25	THE CLERK: Government's Exhibit 56,

Freeman - cross/Fried

previously marked for identification, now marked in evidence.

(So marked.)

THE WITNESS: That's -- Take that out of my -- That's my alien registration card.

MR. FRIED: For purposes of the record, the address book contains Mr. Freeman's alien registration card, and I have no objection to returning it to counsel for the defendant.

THE COURT: All right.

MR. BELDOCK: Just loose.

THE COURT: Let the record show it's been turned over to Mr. Beldock.

MR. FRIED: I offer that as Government Exhibit 56, your Honor.

THE COURT: The witness is thumbing through Exhibit 56.

THE WITNESS: I don't see any other marks in the book offhand, Mr. Fried. So the only thing that I can conclude is that perhaps that's a cancellation mark next to Mr. Etra's name for some reason.

THE COURT: Did you make that mark?

THE WITNESS: I don't know, sir, if I did

Q

on the phone with George Morao?

9	Freeman - cross/Fried
A	I think, twice.
	Q Twice. Was it on the first call that you received
the 1	nformation concerning the problem Terezihna Costa had?
A	Yes, sir, I believe it was.
	Q Was it also on the first call that you received
the n	umber where you could call George Morao back?
A	I think so, but I really don't know for sure. Perhaps
Georg	e called me back. I really At this point in time, it
is ve	ry difficult to recall whether I wrote the number down
reall	y at that point in time. Although it's logical to assume
it, p	erhaps, but I really can't
	Q I don't want you to make any assumptions.
Α	To the best of my recollection, I don't know.
	I was thinking about that yesterday, whether in fact I
did h	ave that number that night.
	Q That night or the
A	Whether I got the number that night, that Friday night,
June	8, right, or whether when I spoke with him later, I got
that	number.
	Q On Saturday, June I'm sorry. On Monday, June
18, w	were you home when Theresa Costa left for the immigration
hear	lng?
A	I was home when she left, and I was home when she
retur	med, I believe.

(continued on next page.)

Freeman - cross/Fried

	Q	Nov	W ,	you	testif	iec	that o	n Sa	tur	lay,	June	16,
you	arranged	for	a	hair	-do or	ha:	r styl	ing	for	Miss	Rosa	llys
Rudr	ner; is th	nat d	001	rect	?							

- A Yes.
- Ω Would you describe the kind of a hair style she was given?
- A I think you would call it a shag, a shag cut.

THE COURT: Was it a disguise? Was it intended to disguise her identity in any way?

THE WITNESS: I don't believe so, but
there is no way I would know. Just a hair-do,
sir. Whether you would say -- They didn't change
the color of her hair or anything else.

THE COURT: Was it a radical change from what she had?

THE WITNESS: No, I wouldn't consider it a radical change.

THE COURT: Were you there while the barber was cutting the hair?

THE WITNESS: Yes, sir, I was in the house.

THE COURT: Any conversation about who she was, her identity, in any way?

THE WITNESS: No. I had had the barber come over to my house on a number of occasions

1	2	rreeman - cross/fried
2		to cut girls' hair, to cut my hair, and he wouldn't
3		ask questions.
4	BY MR.	FRIED:
5		Q You spent all day on Sunday with your family,
6	and wi	th George and Terry and their child, and your in-laws;
7	is tha	t correct?
8	A	Not at my in-laws. At my wife's house.
9		Q Did you go to work that night when you came back
10	A	No. I took the night off, sir.
11		Q When did you go to work the next day?
12	A	On Some time in the afternoon.
13		Q Monday?
14	A	Monday.
15		Q Did you go out of your house at all Monday
16	mornin	g?
17	Α	I don't know. You see, I don't know Monday morning. I
18	don't	know if I did. I could have gone to Gristede's, or some
19	thing,	to the market.
20		O If you go out, it would be just for a short bit?
21	A	It could have been fifteen or twenty minutes. I don't
22	recall	
23		THE COURT: This is Monday, which day of
24		the
25		THE WITNESS: June 18.

1	4 Freeman - cross/Fried
2	A I have no idea. I went to bed. He could very well
3	have, but I don't know.
4	Q When you woke up in the morning on Monday, was
5	George there?
6	A I believe so.
7	Q When you left for work that afternoon, was George
8	still there?
9	A Yes. I
10	Q When David Duffy came
11	A Hold on one second. Let me see.
12	THE COURT: We are talking about Monday,
13	June 18.
14	THE WITNESS: Monday, June 18. Yes, when
15	I left, he was still there.
16	Q When David Duffy came by to pick up Theresa
17	Costa on the 18th to take her to the Immigration hearing, was
18	George also there?
19	A See, I don't know. You've gotten me I've I really
20	can't pin that down, Mr. Fried.
21	THE COURT: If you don't know, just say
22	you don't know. That's an answer.
23	A (continuing) I really don't know. I'm having a problem
24	with trying to sort the Duffy situation out exactly.
25	Q You've stated that you were the owner of the

1	5 Preeman - cross/Fried 1011
2	Electric Circus rather, you were involved with the Electric
3	Circus, is that correct?
4	A Yes.
5	Q Can you tell us your relationship to the Electric
6	Circus?
7	A I was the founder, creator, president and a major share-
8	holder.
9	Q When you founded the Electric Circus, it was a
10	private partnership; is that correct?
11	THE COURT: Private what?
12	Q It was a partnership in the beginning?
13	A It was set up as a limited partnership. That's how I
14	raised the finances for the initial capital I required for the
15	Circus.
16	Q Was one of your partners at that time a man
17	named Brant?
18	A Yes. Jerry Brant was a partner in the general partner
19	ship. Not a limited partner.
20	Q Did there come a time when the business was do-
21	ing so well that you deemed it would be worthwhile to expand
22	and move into a branch in Canada? The Electric Circus was
23	so successful?

Are you asking if that's a reason? What are you asking?

I'm asking if you --

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ant's motivation in this case.

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THE COURT: All right. Go ahead.

I doubt it, but I will give you the chance.

Ten minutes is a lot of time. We only have twenty minutes left in this day.

Each day I put this case on I expect the case to finish.

MR. FRIED: I understand. I'll move quickly, as quickly as I can.

THE COURT: I have a sentencing panel at 4:30.

MR. FRIED: I understand that.

BY MR. FRIED:

Q Mr. Freeman, did the limited -- rather, did the corporation that was set up suffer financial reverses, and subsequently go into a Chapter 11 bankruptcy?

- A Which corporation are you speaking of?
 - Q The corporation that --
- A Do you have the name for it, sir?
 - Q I do not have the name.
- A I can't help you then. There is a whole series of corporations that have been set up, sir, that I have been involved with, and if you can't give me the name, --
- O . Did any corporation associated with the Electric Circus --

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2	λ	In Canada, or in the United States?					
3		Q In the United States.					
4	Α	Yes?					
5		Q Go into bankruptcy?					
6	A	Yes.					
7		Q And did that bankruptcy discharge all of the					
8	corpor	ate debts?					
9	A	Of course.					
10		Q Did you yourself					
11	λ	Excuse me. Maybe I'm getting caught up in legal termin					
12	ology here.						
13		O Let me ask the question in a way that's not in-					
14	volvin	g legal terminology.					
15		As a result of that corporation going into bankruptcy					
16	in the	United States, did you maintain, or did you have any					
17	obliga	tion, any liability?					
18	Α	Personally, or corporate?					
19		O Personally?					
20	λ	Personally, I do, yes. I accrued some personal liabil					
21	ity.						
22		Q Can you tell us the extent of that liability,					
23	that is	t currently is?					
24	7	No, I can't give you an exact figure. I can give you,					
25	you kno	ow, I couldn't give you an exact figure, no, because					

settlements are still being negotiated with a number of people of Circus debts that I personally assumed.

Q These Circus debts you currently still have; is that correct?

A Well, I -- Do I, personally?

Q Are you personally at this point liable for any amounts of money?

A Yes.

Can you tell us, to the best --

THE COURT: Are you trying to show a motivation for going into the narcotics business?

MR. FRIED: I believe in two questions, your Honor, I will hope to establish it.

Q Can you tell us the size of your indebtedness now? If you can -- as you can best calculate it?

MR. BELDOCK: Your Honor, only because there is no jury here, but I --

THE COURT: No. Objection sustained.

I am not interested. I do not believe that the insolvency of an individual defendant is proof or motive for committing a crime.

The converse may be true. Sudden wealth may be proof that a crime was committed, since the inference may be drawn that it's proceeds

of the crime.

But if poverty were a motive for committing a crime, -- and it may be as a general
matter that -- but not in a specific matter -if you show me authority for that, that all you

proof that -- that's proof of motive for a crime.

MR. FRIED: Your Honor, I would merely

have to do is prove someone was poor, and that's

urge that I'm not attempting to show that the

defendant in this case was poor. That's not my

THE COURT: Then what are you trying to show? Are you trying to show he was seriously in debt?

MR. FRIED: I'm trying to --

THE COURT: Personal obligations?

MR. FRIED: That's correct.

THE COURT: What is the inference I should draw from that?

MR. FRIED: The inference is that a person who is currently, or not currently -- a person who is under a large personal obligation, a large personal debt, and sees an opportunity where he can obtain a large amount of capital, large amount

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of cash, may be more likely than not --

THE COURT: I won't allow it for that purpose, unless you can show me authority for it.

BY MR. FRIED:

Mr. Freeman, when you called the hotel on -- when you were at the hotel and you called your home on June 18, 1973, and told George to "split," did you have any reason to believe that you were also -- were you also warning, intending to warn Rosalys Rudner?

A No, sir. No, sir. To my knowledge, she was not at my house.

Isn't it a fact, Mr. Freeman, that if at that time you had given -- Withdrawn.

MR. PRIED: I have no further questions.

THE COURT: Mr. Freeman.

THE WITNESS: Sir?

THE COURT: Did George ever discuss with

you retaining the firm of Lefcourt --

THE WITNESS: Yes.

THE COURT: -- Brendan, Cohen & Katz?

THE WITNESS: Yes, sir.

THE COURT: Did he get that name from you?

THE WITNESS: No, sir. No, he didn't.

He had mentioned it to me after he had already retained counsel. He had mentioned that he -- I had asked him, as I just said before, I asked him if he had retained adequate counsel for his friend that got busted, and he said that he had retained Sandy Katz. I said I didn't know who Sandy Katz was.

He then mentioned the entire name of the firm to me, and when he did, I said, yes, I know of Gerry Lefcourt, and I know Gerry Lefcourt, and I think they're a pretty good firm, but I really don't know. I know that -- I know some of the work they've done, with the Chicago Eight work.

THE COURT: Did you call Lefcourt, or have any discussion with any member of the firm, about being retained for the defendants who were arrested?

THE WITNESS: No, sir, never. I spoke with Gerry Lefcourt on two separate occasions after this, you know, situation. But not prior to their having been retained by the other defendants.

THE COURT: All right. Anything further, Mr. Beldock?

MR. BELDOCK: I don't think so, Judge. Let

me just ask Mr. London a question.

No questions.

THE COURT: Did George tell you how he came to the firm?

THE WITNESS: No. It since came out, in -- I think it came out, anyway, during the -- Duffy's --

THE COURT: No. I wanted to know whether he ever discssed that with you.

THE WITNESS: I believe that I asked him.

I don't recall his answer, as to who recommended,
whether a friend had recommended the firm, or what
have you. You know, I don't know.

THE COURT: All right. Anything further?
Anything further, Mr. Fried?

MR. BELDOCK: No.

MR. FRIED: Your Honor, just two questions, if I may.

(continued on next page.)

RECROSS EXAMINATION

BY MR. PRIED:

Mr. Freeman, you stated on your direct examination that the Agents asked you if you had any valuables, and then you were given -- when you were arrested, and you were then given permission to turn the valuables over to Mr. Colub?

A Is that what I said?

0 Is that correct?

A Could you ask him to repeat my exact words, Mr. Fried, because those aren't my exact words.

THE COURT: Ask the question again, then.

Q Did you -- On direct examination, you testified that you gave your wallet and your other valuables to Mr. Golub, because Mr. Levine had told you --

No, sir. Can I just answer quickly for you? I did not say that I gave my wallet. I said I gave my money. I said ! gave my jewelry, right, my belt, but I did not say my wallet. If you go back in the testimony here, you will find out.

MR. FRIED: I have no further questions.

THE COURT: Anything further, Mr. Beldock?

MR. BELDOCK: No, your Honor.

THE COURT: You may step down.

THE WITNESS: Thank you.

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MR. BELDOCK: The defense rests.

THE COURT: The Government? Any rebuttal?

MR. FRIED: No rebuttal, your Honor.

THE COURT: The Government rests?

MR. FRIED: The Government rests.

THE COURT: Instead of making any kind of a closing statement, you might want to analyze the testimony, and make it in writing. There is no sense, or little sense in giving me a memorandum of law. There is no question in my mind that there was a Conspiracy, consisting of Tambini, Rudge and Rudner at the time set forth in the indictment, during that period, for the purpose of importing and distributing cocaine. I think that is shown overwhelmingly.

Of course, the critical question is whether this defendant knowingly and willfuly entered that Conspiracy.

There is no question in my mind that this defendant used cocaine, bought cocaine from George Morao in quantities which the evidence indicates were up to four ounces, which is about a quarter of a kilo.

The evidence clearly shows that he at times

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shared, is the term that I'm sure that he'd like to use -- but that's a distribution -- distributed cocaine.

I think the argument should focus on one issue. Does the record support a finding that this defendant knew of the Conspiracy, this Conspiracy to import cocaine -- The quantity is not important -- cocaine, and whether the evidence supports a finding that he did something that proves beyond a reasonable doubt that he knowingly and willfuly entered into the Conspiracy.

Knowledge of the existence of the Conspiracy alone is not enough. His association along with George Morao is not enough. Proof of a previous purchase of cocaine from George Morao is not enough.

I am saying all these are not enough by themselves. They are evidence of knowledge, certainly.

I have not as yet decided the issue in my own mind. There is no sense giving me a lot of pages. I have gone over this record already, at least until the testimony that was given on Thursday.

There is no sense arguing about the Conspiracy that I indicated I found existed.

I think if you just pay attention to that one issue, it will be helpful to the Court.

How much time do you want?

MR. BELDOCK: Some time next week, your Honor. I don't want to delay this. As you know, we have worked as expeditiously as we could in this case.

THE COURT: How much time?

MR. BELDOCK: I certainly would like until next Thursday, if that's possible.

I am backed up on matters that will take me about four days, but I can do it on the week-end.

THE COURT: How about you, Mr. Fried?

MR. FRIED: Your Honor, I would appreciate
the opportunity to have a day or two to examine
Mr. Beldock's --

THE COURT: Why?

MR. FRIED: Well, on the theory that it's similar to a closing statement. If he submits it to me on Thursday, I could have it to the Court late Friday afternoon, I'm sure, my brief.

MR. BELDOCK: If your Honor directs it, of course --

THE COURT: How about Wednesday?

MR. BELDOCK: But it doesn't make any --

THE COURT: Now about Wednesday afternoon

for you?

MR. BELDOCK: I think I can make it then, your Honor. I will advise you.

THE COURT: Wednesday at 1:00 o'clock, serve and file.

MR. BELDOCK: Okay.

THE COURT: Friday for the Government, by 1:00 o'clock.

MR. FRIED: Yes, your Honor.

MR. BELDOCK: Would your Honor care to rule at this time on the substantive Counts?

THE COURT: No. Because if I find that he is a member of the Conspiracy, and that he is a member of that Conspiracy at a time of the importation, possession aboard the plane took place, and under Pinkerton, I should find that he's Guilty of all the substantive Counts.

Incidentally, that would be another question.

MR. BELDOCK: Yes, I am aware of that.

THE COURT: Do not spend too much time on that, but if you feel it ought to be argued, sure.

I would like you to keep Friday afternoon open. I do not want to put it down yet for any brief remarks you would like to make, but I want Mr. Freeman to keep that afternoon open, too.

MR. BELDOCK: The 28th?

THE COURT: Friday, the 28th.

If I get the briefs early enough, and if
I have a chance to read it, I have chance to at
least arrive at a tentative determination, I
will bring you in Friday. Otherwise, I will have
to fix another day.

Oh, the holidays.

MR. BELDOCK: It is Rosh Hashana. I should have brought that to your attention, because my calendar shows that. I thought you were aware of it. Rosh Hashana is -- Well, it says the 27th. I think it is probably the eve. I don't know. My calendar indicates the 27th says Jewish New Years, so probably both of those days.

THE COURT: The 27th and 28th, I've already been told that.

Can you advance it to the 24th?

MR. BELDOCK: I'll make it. Can I have

-- I'll be on trial on that day, Judge, but I'll

finish the brief over the weekend. I would prefer

at least toward the end of the day so one of my

associates can do the mechanics of getting it out.

I'll get it in as close to 4:00 o'clock as I can. 4:00 o'clock?

THE COURT: All right. The 24th, 4:00 o'clock.

MR. FRIED: Is that Tuesday, your Honor?

THE COURT: Monday. This Monday.

And I would like it from the Government the 26th at 1:00 o'clock.

MR. FRIED: Yes, your Honor. That's Wednes-day?

THE COURT: That is Wednesday.

MR. BELDOCK: And then what -- Are you thinking of that afternoon to possibly --

THE COURT: Leave the afternoon open.

MR. BELDOCK: Of the 26th?

THE COURT: If you can get it to me before

1:00 o'clock, I would appreciate it, Mr. Fried.

MR. BELDOCK: Thank you, Judge.

MR. FRIED: Thank you, your Honor.

(Whereupon, a recess was taken.)

. . . .

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

73 CR 633

UNITED STATES OF AMERICA

-against-

Memorandum of Decision and Order

STANTOM FREEMAN.

Defendant.

October 5, 1973

By a superseding indictment filed in this court on June 28, 1973, the defendant Stanton Freeman was charged with conspiracy to import cocaine, to possess and distribute cocaine, to conceal the existence of the conspiracy, and to prevent disclosure of the activities of the conspiracy. The defendant was also charged in three substantive counts with importation of cocaine, possession of cocaine with intent to distribute it, and possession of cocaine on board an aircraft, all in violation of the Drug Abuse and Control Act of 1970, 21 U.S.C. 53 841(a)(1), 952, 955, 960. The defendant Freeman waived his right to a jury trial and the case was tried to the court. The court finds the facts as follows:

In the Spring of 1973, Francisco Rudge travelled to

his native Brazil from the United States. During a stop-over in Boliva he learned that he could purchase pure cocaine at \$2,500.00 per kilo with difficulty. When he returned to the United States, he met with one George Morao at his room in the Hotel Albert on East 10th Street in Manhattan, and discussed the importation of cocaine. Morao assured Rudge that he would have no difficulty disposing of the cocaine. In May 1973, Rudge and Morao met again in Rudge's room at the Hotel Albert with one Rosalys Rudner to discuss plans for importing cocaine from Boliva. Rosalys Rudner, a national of Brazil, lived with Rudge at the Hotel Albert. It was decided to arrange for the importation in June.

In the latter part of 1971, defendant Stanton Freeman met George Morao. Morao was a part-time photographer and a cocaine dealer. The meeting ripened into a close friendship end business relationship. Freeman, who was a night club entrepreneur and whose business activities were related to the music business, supplied cocaine to some musicians. In September 1971 Freeman attempted to establish a source for

This was prior to Morao's trip to Brazil. It is not clear whether Morao left for Brazil to help Rudge (who insints this was his only experience in the importation of cocaine) procurs the cocaine in Boliva.

his cocaine business with one Marc Etra who was an importer of cocaine. The negotiations reached a point of discussing amounts and quality including submission of a sample. Kilogram quantities were discussed. Freeman met Morao at about this time and Morao became Freeman's regular source of supply. During the period from on or about September 1971 to June 13, 1973, Freeman was unaware of the identity of the importer of the cocaine. Freeman, however, knew that the cocaine Morao sold him was purchased by Morao from the importer or that Morao himself imported the cocaine. The circumstantial evidence of the close relationship between Freeman and Morao; Morao's announcing his return from Brazil on June 8; Morao's visit on Saturday,

¹² The defendant contends in his trial memorandum that evidence of prior bad acts should not be admitted. This contention, however, is contrary to the weight of authority in this circuit. See United States v. Stadter, 336 F.2d 326 (2d Cir., 1964), cert. denied, 380 U.S. 945 (1965) (evidence of prior dealings in marijuana admissible in prosecution for unlawfully selling and conspiring to sell heroin where such evidence tended to show the organization and structure of the conspiracy, the individual role played by members of the conspiracy, and intent of the parties). See also United States v. Vario, Criminal No. 73-1592 (2d Cir., September 12, 1973); United States v. Miller, 478 F.2d 1315, 1318 (2d Cir., 1973); United States v. Deaton, 381 F.2d 114, 117 (2d Cir., 1967)

June 9; Morao's visit with Freeman on Sunday, June 10 (which was purportedly to present Freeman with a gift—a polished stone paperweight—but which turned into a discussion of the possibility of supplying shishkabob for the night club opening; and all the events recounted in this memorandum of decision of the evening of June 13 and thereafter, up to and including June 13, the time of defendant's arrest, convinces the court beyond a reasonable doubt that defendant knew that Morao was to receive the cocaine on or about June 13. The Government proved through circumstantial evidence that Morao agreed to sell Freeman all or part of that importation.

Rudge and Rudner decided to enlist the aid of one Marilene Tombini as a courier in the plan. Tombini, a national of Brazil, was then residing in London. Rudge and Rudner flew to London where they met with Tombini. Tombini agreed to play the assigned role in the plan. Rudge paid for Tombini's return to New York. Tombini came to New York on June 2nd. The plans were finalized at a meeting in

This turned out to be purely social since Freeman was at his club preparing for its opening the coming Wednesday. Morao spent part of the day with his wife, Theresa Costa, and with Freeman's girlfriend, Jay Robbins, at Freeman's home.

Rudge's room at the Hotel Albert in early June, attended by Rudge, Rudner and Tombini. Rudge agreed to supply the funds. Tombini was to fly to Buenos Aires, Argentina. Rudge and Rudner were to fly to Boliva and Rudner thereafter was to meet Tombini with the cocaine in Buenos Aires.

Rudge left John F. Kennedy International Airport on June 6th for Boliva on Braniff Airlines. Rudner left for Boliva on Lufthansa on the same day. Tombini left for Buenos Aires on June 7th on Argentina Airlines. Rudge purchased two (2) kilograms of cocaine in Boliva at \$2,500.00 a kilo. He turned it over to Rudner, who then left for the Sheraton Hotel in Buenos Aires to meet Tombini. Rudge returned to New York at the John F. Kennedy International Airport in the early hours of June 13th.

Rudner delivered two suitcases in which were concealed the two kilograms of cocaine. The next morning,
Tombini put her personal belongings into the two suitcases.
Rudner and Tombini boarded a Pan American flight to New
York. Tombini was arrested as she attempted to pass

Morao returned to New York on June 8th.

through Customs. Rudner had taken a position on a fast moving line at a Customs checkout counter and lost sight of Tombini. Rudner in the meantime waited at the Terminal outside of Customs. When Tombini failed to exit from Customs, Rudner surmised that Tombini had been arrested.

Rudner took a taxi to the Hotel Albert to report her suspicions to Rudge. She came with two suitcases. Rudge, understanding the gravity of the situation, suggested that Rudner pack the clothing and other personal effects that she had left in his hotel room and go to the Hotel Paramount on 46th Street, near Emadway. She took a taxi and registered at the Paramount Hotel in the early hours of June 14th.

After Rudner left the Hotel Albert, Rudge called Morao, his prospective purchaser. Rudge informed Morao that he had sent Rudner to the Hotel Paramount, and the twofiscussed the probability of Tombini's arrest.

Rudge was arrested at about midnight on June 13th on the information supplied by Tombini. Morao learned of the arrest and advised Rudner. Apparently, Rudner learned of the arrest at a time when she was not in her hotel room. Morao, his wife, and Rudner advised Freeman of the

seriousness of the situation. Freeman agreed that Morao and Rudner should hide out in his apartment at 16-1/2 Perry Street in Greenwich Village. Morao, his wife, and Rudner arrived at Freeman's apartment in the early morning hours of Thursday, June 14th, and remained there until the evening of June 18th when they received a telephone call from Freeman advising them of the danger of immediate arrest and ordering them to "split." (Tr. p.963)

Freeman met Rudner for the first time when he returned from his night club on the morning of June 14th.

Freeman and Morao discussed the possibility of flight from the United States and taking refuge in Canada. On June 16th (Saturday) Morao, Freeman, and one David Duffy discussed the feasibility of escaping to Canada through Vermont. One of the problems was retrieving Rudner's bags at the Paramount Hotel and Morao's bags at the Hotel Albert.

Freeman called at the Hotel Albert. He paid Morao's hotel bill from June 9th to June 16th, and obtained possession of his bags. He then turned them over to Morao. Recovery of Rudner's bags presented a more difficult problem. Freeman realized that with the arrest of Tombini (Rudner's travelling companion) and the arrest of Rudge (Rudner's boyfriend) she

was a prime suspect. He rightly suspected that her hotel room and luggage would be kept under surveillance. Fortuitously, one Kim Ornitz, a friend of Freeman, dropped by the club with one John Spencer Davis late in the afternoon on Monday, June 18th. Ornitz was first solicited for the venture. When he refused, Freeman turned to Davis. Freeman told Davis that he was interested in getting two bags owned by a cocaine smuggler at the Hotel Paramount. Davis first refused. Freeman then offered him money and cocaine. The price was right for Davis and he accepted. Freeman gave Davis \$60.00 in currency; he advised Davis that the girl's name was "Rosalys Rudner, Room 1815, Paramount Hotel and the bill was \$54.17." (Tr. p.474)

Ornitz, who on occasion received cocaine from Freeman, accompanied Davis part of the way to the Hotel

Davis testified that Freeman said: "Jock, there is a chick who is hot and she is a cocaine smuggler and her bags are at the Hotel Paramount, which is four blocks away."

(Tr. p.473)

Davis testified Freeman told him "I am not sure whether you will get \$400.00 and get high, whether one gram of cocaine and \$50.00 or just \$50.00. I am not sure." (Tr. p.475)

Paramount. He noted that Davis was delayed in exiting from the Hotel Paramount with the bags. When Davis did appear on the street in front of the Hotel, Oznitz noticed agents following Davis down the street. Ornitz returned to the Diplomat Hotel and reported to Freeman what he had observed.

In the meantime, Davis was arrested. He agreed to cooperate and attempted to deliver the bags to Freeman.

Freeman, having been alerted to the risk, refused to see Davis or acknowledge any interest in the bags.

Customs Special Agent Michael Levine confronted

Freeman with the bags on the evening of June 8th at Fraeman's night club in the Diplomat Hotel. On the pretext that he had pressing business, Freeman asked to be excused. Freeman then took a circuitous route to his private office and called Morao at his (Freeman's) home. Freeman advised Morao of the extreme emergency and told him that he (Morao) and Rudner were to hide out elsewhere. Morao left the country. Rudner's whereabouts is unknown.

I find that the defendant Stanton Freeman entered the conspiracy alleged in the indictment at the commencement of the term of the conspiracy and that the conspiracy continued until the time of his arrest on June 19, 1973. When he entered the conspiracy he understood his role to be that of a purchaser of cocaine from Morao for the purpose of distributing the cocaine to users. He knew that the cocaine was to be imported from South America. He entered into the conspiracy with intent to violate the Federal Marcotics Laws. At the time he entered the conspiracy he not only knew Morao but he also knew that other participants in the conspiracy purchased narcotics in South America, that they imported narcotics into the United States, and that such importation was illegal.

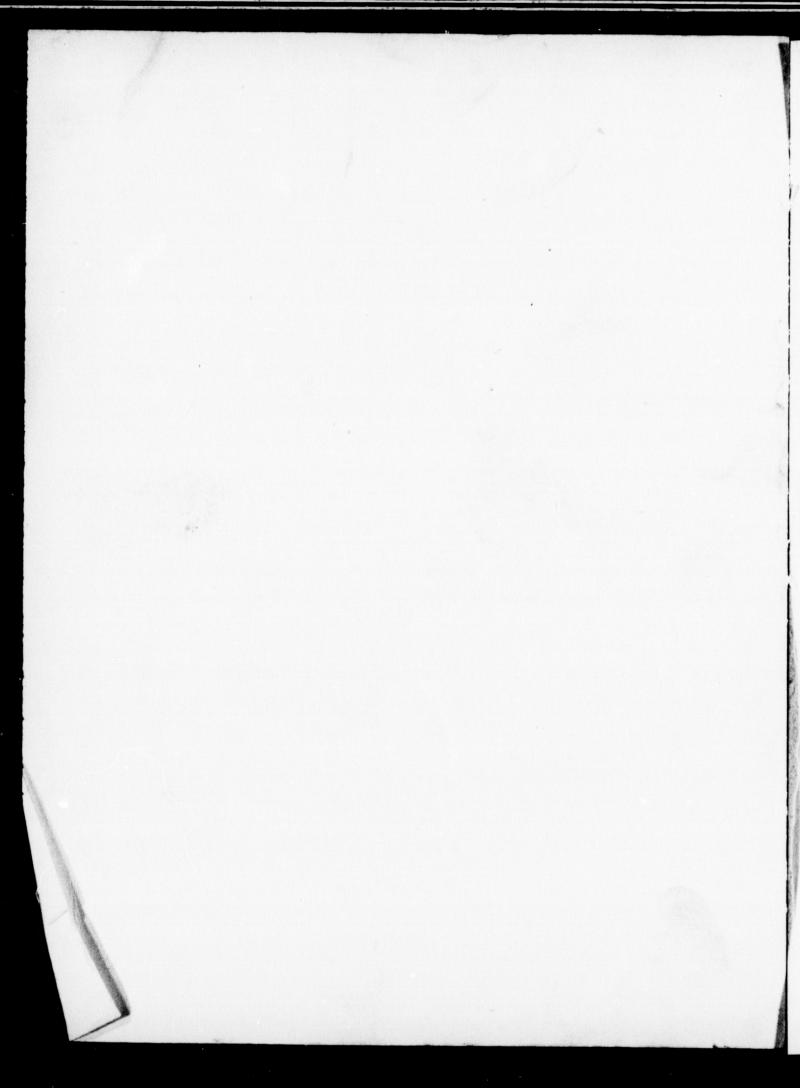
I find that at the time the crimes set forth in counts 2, 3 and 4 were committed, defendant Stanton Freeman was a member of the conspiracy; that all the crimes committed in counts 2, 3 and 4 were committed during the term of the conspiracy and in furtherance of the objectives of the conspiracy.

I find the defendant Stanton Freeman guilty of counts 1, 2, 3 and 4 of the indictment.

This memorandum of decision contains findings of fact pursuant to Rule 23 (c) of the Mederal Rules of Criminal Procedure.

JACOB MISHLER

U. S. D. J.



UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

1037

UNITED STATES OF AMERICA.

Respondent,

73 CR 633

-against-

NOTICE OF APPEAL

STANTON FREEMAN,

3

Defendant-Appellant.

Notice is hereby given that Stanton Freeman, defendant above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final judgment of this Court convicting him of, and sentencing for, violations of Sections 952(a), 960(a)(1), 841(a)(1), 955 and 960(a)(2) of Title 21, United States Code and of conspiracy to violate said sections, entered in this action on the 4th day of January, 1974; and from each and every adverse order, decision, finding and ruling herein.

Dated: New York, New York January 4, 1974

BELDOCK LEVINE & HOFFMAN

R

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TO: Hon. Edward John Boyd
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